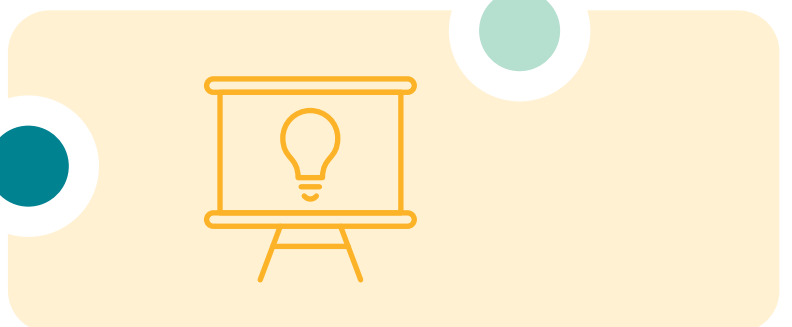


Annual Report 2022-23

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Acknowledgement of Country

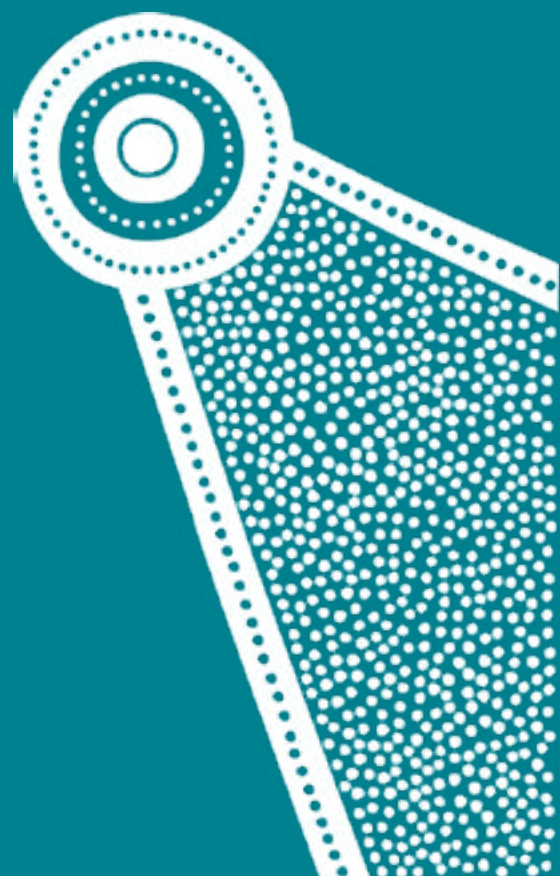
We acknowledge that Aboriginal and Torres Strait Islander peoples are the First Peoples and Traditional Custodians of Australia, and the oldest continuing culture in human history.

We pay respect to Elders past and present and commit to respecting the lands we walk on, and the communities we walk with.

We celebrate the deep and enduring connection of Aboriginal and Torres Strait Islander peoples to Country and acknowledge their continuing custodianship of the land, seas and sky.

We acknowledge the ongoing stewardship of Aboriginal and Torres Strait Islander peoples, and the important contribution they make to our communities and economies.

We reflect on the continuing impact of government policies and practices, and recognise our responsibility to work together with and for Aboriginal and Torres Strait Islander peoples, families and communities, towards improved economic, social and cultural outcomes.



Artwork on this page with thanks to Aboriginal artist, Charmaine Mumbulla.

Letter of submission

The Honourable Ben Franklin MLC
President of the Legislative Council
Parliament House
SYDNEY NSW 2000

The Honourable Greg Piper MP
Speaker of the Legislative Assembly
Parliament House
SYDNEY NSW 2000


Dear Mr President and Mr Speaker,

In accordance with sections 138 and 141 of the *Children's Guardian Act 2019*, I am pleased to present to Parliament the Office of the Children's Guardian Annual Report for the 2022–23 financial year.

The Annual Report has been prepared in accordance with the *Government Sector Finance Act 2018* and the *Children's Guardian Act 2019*.

As provided by section 141(2) of the *Children's Guardian Act 2019*, I recommend that this report be made public forthwith.

Yours sincerely,



Steve Kinmond OAM
Children's Guardian

Foreword



It's a pleasure to welcome you to my first annual report as Children's Guardian in NSW.

This report highlights the deep connections the Office of the Children's Guardian has with organisations across the state that contribute to the lives of children and young people.

Strong regulation and, where necessary, enforcement, is an important element of my office's safeguarding work.

However, what is more important is our work with many others to promote the safety and wellbeing of children and young people.

To deliver the best results for children, requires joint endeavours which might involve agencies in the child protection, community service, education, health, local government and justice spheres. Very vulnerable children in particular, have multiple and complex needs which require a well integrated multi-agency response.

In terms of our commitment to work in partnership with others, we have already undertaken substantial work with child-related sectors to create 'communities of practice' models for sharing knowledge and best practice in implementing the Child Safe Standards. A Child Safe Community of Practice for the Sport and Recreation sector has been operating since 2022, and a community of practice for the Religious Sector was established recently.

Effectively engaging with First Nations stakeholders is helping us improve our Working with Children Check systems. This includes establishing a collaboration agreement with Maranguka, the operational arm of Bourke Tribal Council in western NSW. The agreement supports Aboriginal community members from Bourke at key stages of the Working with Children Check process.

We've also been working with providers of statutory out-of-home care to improve and streamline how we monitor their work and assess their accreditation. Importantly, this has involved listening to agencies' perspectives on where we can do better to help them fulfill their primary function – the care of vulnerable children and young people.

These are just a few examples of our joint work with key stakeholders. This year's annual report also includes a set of case studies that shed light on the work we do, as well as providing various data and other reporting measures relating to the exercise of our functions.

This report also refers to very specific systems issues. One of these is the shortage of carers in NSW, and the related need to better support foster carers in their critical roles. In this regard, we have supported the establishment of a joint carers reference group, which would bring together senior leaders in the out-of-home care sector to explore strategies for better supporting and increasing the number of carers, including examining issues impacting carer retention, and identifying and addressing barriers to attracting new carers.

We are also pursuing changes to the National Reference System – a centralised system operated by the Commonwealth – to ensure Working with Children Check schemes nationwide have access to a broader range of information related to the risk applicants may pose to children. Connected to this issue, we are also advocating for improvements to information sharing schemes across the nation, to ensure that risks to children can be readily identified and appropriate action taken.

Finally, my very warm thank you for the welcome and support I've received within my office and across the state in my first months as Children's Guardian, and a particular thank you to my predecessor Janet Schorer, and former Deputy Children's Guardian Richard Weston, for their leadership and their important work at the Office of the Children's Guardian.

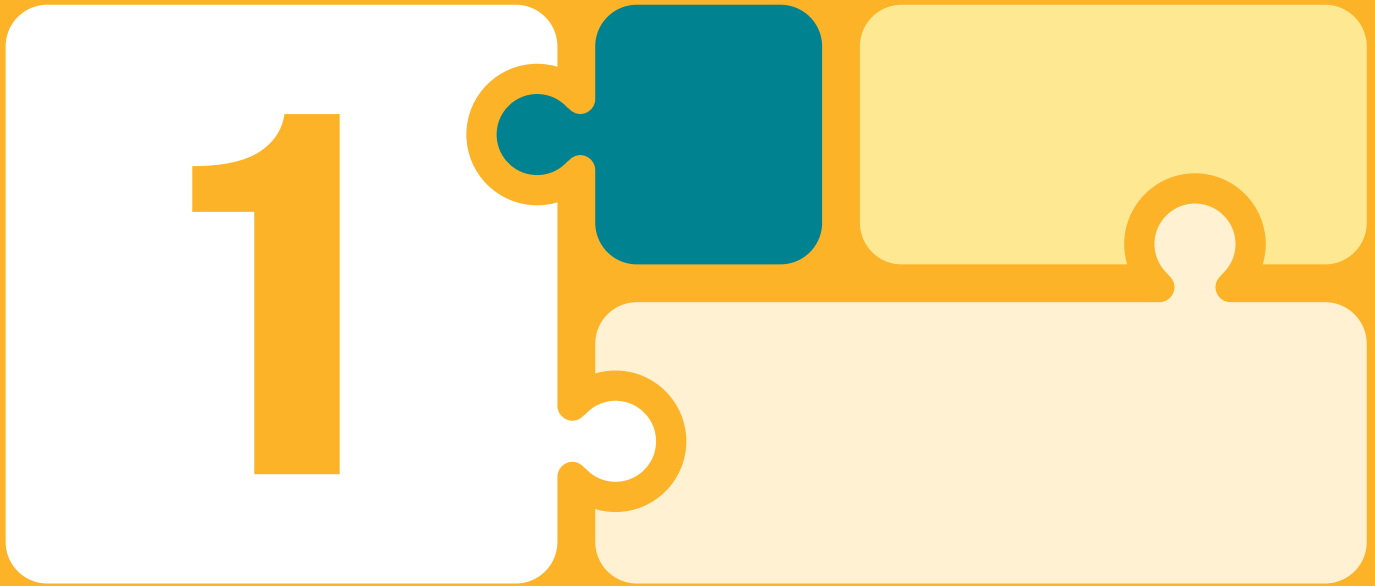
I look forward to working with organisations and communities across the state as we continue to support the children and young people of NSW.

A handwritten signature in black ink, appearing to read 'S. Kinmond'. The signature is fluid and cursive, written over a white background.

Steve Kinmond OAM
Children's Guardian

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Overview

The Office of the Children's Guardian's aims, objectives and values and our leadership group.

Aims and objectives

Our purpose

We regulate and oversee organisations to uphold children and young people's right to be safe.

Our vision

We influence and lead change by building capability in organisations to be child safe.

Our values

The values we work to are: integrity, trust, service, accountability, respect and empathy.



Integrity



Trust



Service



Accountability



Respect



Empathy

Charter

Our key responsibilities are to:

- promote the quality of child safe practices
- regulate organisations and individuals providing services to children
- educate employers and organisations about their responsibilities
- monitor organisations and individuals to achieve ongoing, child-centred culture and compliance
- facilitate sector-wide cultural change to achieve safe places for children.

Reporting framework

The *Children's Guardian Act 2019* requires the Children's Guardian to provide an annual report to NSW Parliament on our operations.

The Children's Guardian reports to Parliament and the Minister for Families and Communities and Minister for Disability Inclusion, the Honourable Kate Washington MP.

The Joint Parliamentary Committee on Children and Young People monitors the execution of the Children's Guardian's functions under the *Child Protection (Working with Children) Act 2012*, and Parts 3A, 4 and 9A of the *Children's Guardian Act 2019*, and in relation to out-of-home care.

The Office of the Children's Guardian meets its obligations under the *Government Information (Public Access) Act 2009* and other reporting frameworks.

Management and structure

The current executive team comprises:

Mr Steve Kinmond OAM, Children's Guardian

(commenced as Children's Guardian on 18 January 2023)

Bachelor of Arts, Bachelor of Laws, Diploma of Education, Diploma of Criminology, Diploma of Legal Practice

Ms Louise Coe, Director, Child Safe Organisations

Bachelor of Commerce, Bachelor of Laws (Hons), Diploma of Legal Practice, Executive Master of Public Administration

Ms Larissa Johnson, Director, Out-of-home care Systems and Regulation

Bachelor of Social Work

Ms Natasha Mewing, Director, Reportable Conduct

Bachelor of Arts, Bachelor of Laws (Hons)

Mr Michael Rosmalen, Director, NDIS Worker Check

Bachelor of Commerce (Economics), Master of Applied Economics

Mr Steve Gholab, Director, Working with Children Check

Bachelor of Social Science (major in Criminology and Sociology), Advanced Diploma of Management, Diploma of Project Management

Mr Peter Eaton, Director, Corporate Services

Bachelor of Commerce, Certified Practising Accountant

Ms Sharminie Niles, General Counsel

Master of Laws, Solicitor of the Supreme Court of NSW, Solicitor of the Supreme Court of England and Wales



Former executive team

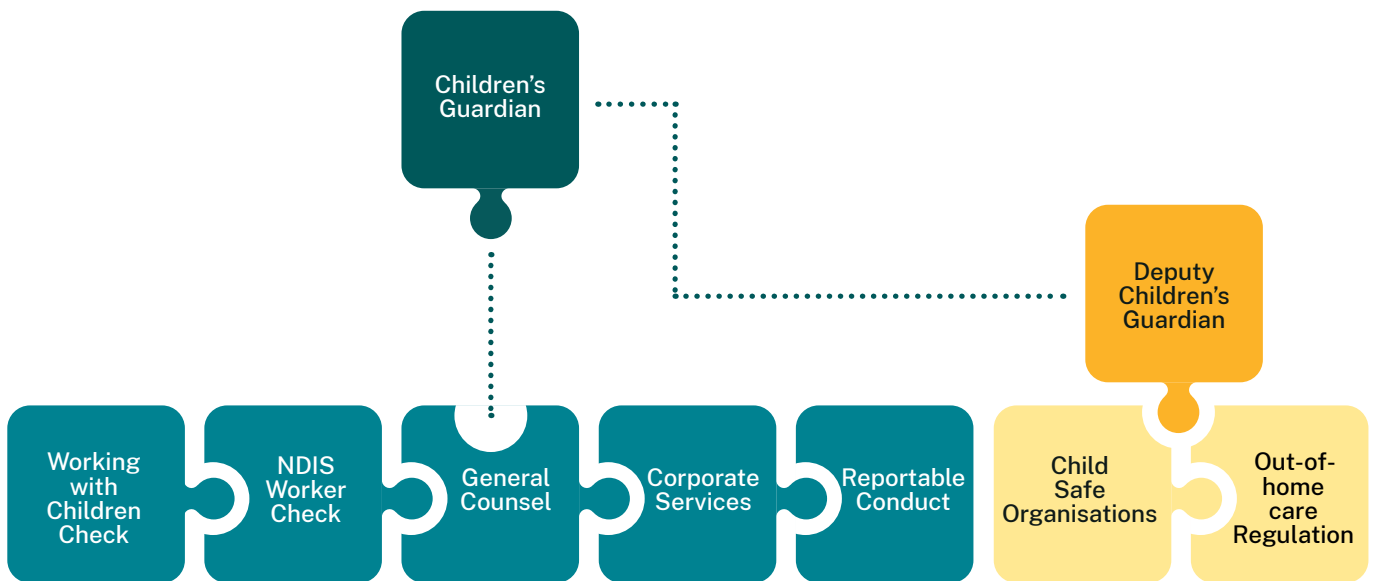
Ms Janet Schorer PSM, Children's Guardian
(departed OCG on 23 October 2022)

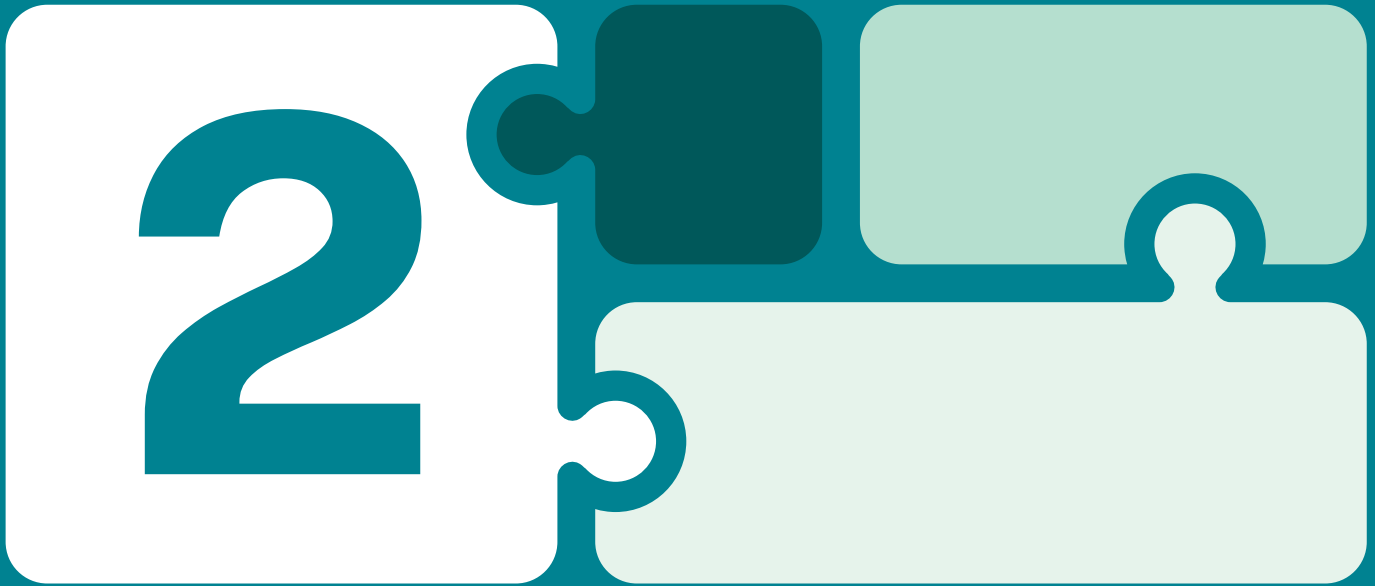
Diploma in Applied Science (Nursing), Bachelor of Arts (Psychology), Graduate Diploma in Child and Adolescent Psychology, Executive Master of Public Administration

Mr Richard Weston, Deputy Children's Guardian
(departed OCG on 2 February 2023)

Bachelor of Business

Figure 1: Organisation chart indicating functional responsibilities of senior executives:





Strategy

The Office of the Children's Guardian's strategic priorities and overview of the work we do to achieve those priorities.

Strategic objectives

Our current Strategic Plan launched in 2021 and runs to the end of 2023.

In January 2023, Steve Kinmond OAM was appointed as the NSW Children's Guardian. A new Strategic Plan will be developed next year, building on the achievements and areas of focus of the current plan.

Our strategic priorities



The strategy also sets the future agenda for the Office of the Children's Guardian to 2023 to help create safer places for children in NSW focusing on:

- what we deliver
- who we work with
- how we are perceived
- our internal processes and systems
- our people and culture.

Summary of operational responsibilities

Child Safe Scheme

The Child Safe Scheme requires child safe organisations to create, maintain and improve child safe environments by building child safe cultures and improving practices to prevent harm occurring.

The Scheme provides an overarching framework for operation of our functions under the *Children's Guardian Act 2019*, and is a significant child safety reform in NSW. The Child Safe Scheme implements the preventative recommendations made by Royal Commission into Institutional Responses to Child Sexual Abuse.

The Child Safe Scheme is designed to establish a foundation for organisations to create and maintain child safe environments and to prevent child abuse in organisations by building safe cultures and improving practices to prevent incidents occurring.

While the Child Safe Scheme has been in place for over a year, our compliance, investigation and enforcement powers commenced in 2023.

Working with Children Check

The Working with Children Check is one of a number of tools that organisations should use to build a safe environment for children.

People who work or volunteer to provide certain services to children and young people in NSW are required to have a Working with Children Check clearance. It is an offence for a person to engage in child-related work without a current application or clearance.

Employers also have legal responsibilities in relation to the Working with Children Check. We monitor employers' compliance with Working with Children Check laws with a focus on employer education, particularly the importance of employers verifying their workers' Checks.

Reportable Conduct Scheme

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, volunteers and contractors who provide services to children.

Where risks to children are identified, reportable conduct information may be shared with the Working with Children Check and other areas of the Office of the Children's Guardian to inform decision-making in the exercise of our education, monitoring and compliance functions.

Statutory out-of-home care and adoption

The Office of the Children's Guardian 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 the safety, wellbeing and welfare of children and young people who have been placed in out-of-home care.

The Office of the Children's Guardian also 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.

Registration systems

The Office of the Children's Guardian manages the Carers Register and Residential Care Workers Register. The Carers Register records information about carer applications, authorised carers who are providing out-of-home care and their household members. The Residential Care Workers Register records information about individuals who have applied for and are engaged as residential care workers, including those who are authorised to provide out-of-home care in a residential setting.

Each register assists in the selection and probity assessment of carers and residential care workers. Information collated from the Carers Register and Residential Care Workers Register informs our accreditation and monitoring process for designated agencies.

The Residential Care Workers Register commenced in July 2022 and its design and implementation was recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse.

Specialised substitute residential care

Specialised substitute residential care replaced the previous voluntary out-of-home care scheme on 1 September 2022.

Specialised substitute residential care is an arrangement between a parent and an organisation for a child to receive care away from their usual home for 3 or more nights in any 7-day period. The care must be for respite or behaviour support or funded by the National Disability Insurance Scheme.

It provides support for families caring for children and young people with complex needs, many of whom are living with disability.

In NSW, providers of this type of care are required to complete a self-assessment using our online tool, and comply with the Code of Practice which we use to monitor them.



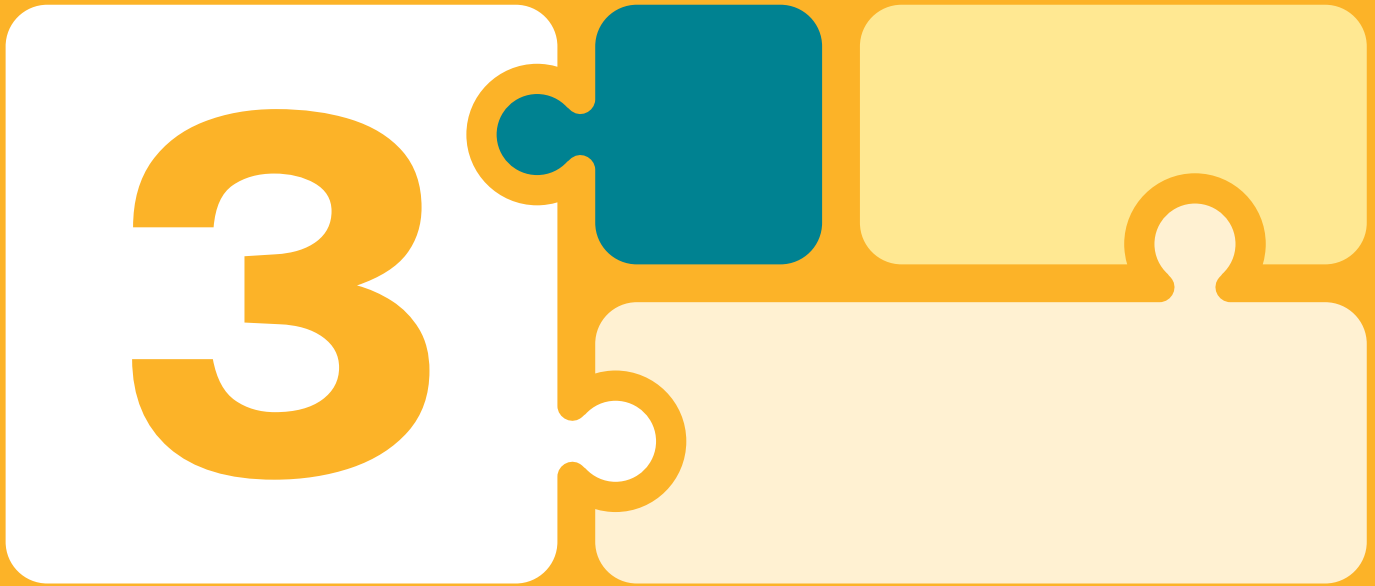
Children's employment

The Office of the Children's Guardian is 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.

NDIS Worker Check

Certain workers delivering supports or services under the National Disability Insurance Scheme (NDIS) are required to have a worker screening clearance. In NSW, the Office of the Children's Guardian is responsible for administering the NDIS Worker Check.

All states and territories are operating an equivalent worker screening check that is recognised by the Commonwealth Government. An NDIS Worker Check is valid for 5 years and can be used across Australia with any NDIS employer and in any NDIS role.



Operations and performance

Summary of our operations and our performance highlights that help keep vulnerable people safe in organisations.

Performance highlights for 2022-23

93,000

people undertaking any Child Safe capability building activity
This includes attending training, webinars, eLearning and videos.



85

designated agencies authorised to provide out-of-home services.



803

children accessed specialised substitute residential care through 272 agencies over the year.

There are

33,469

active employers.

These organisations all have responsibilities to verify employees' WWCCs, most also fall under the Child Safe Scheme.

Compliance against the **Child Safe Scheme**

Began 1 February 2023



8,080

individuals registered on the Residential Care Workers Register which launched on 18 July 2022 as recommended by the Royal Commission.



491

applications for a Working with Children Check were not granted, essentially barring these people from working with children.

2,006

organisations audited for WWCC compliance.



Issued

235

notices to employers that their employees' status changed, requiring them to be removed from child-related work.

1,877,416

people with WWCC in NSW. People who work with children are required to have a verified Working with Children Check.



2,054

notifications to Reportable Conduct Scheme.

17,121

carers on the NSW Carers Register



Child Safe Scheme

On 1 February 2022, the Child Safe Scheme commenced after two years of planning and stakeholder consultation. Organisations captured under the Scheme **must** implement the Child Safe Standards and be proactive about protecting children from abuse.

In the first year of the scheme, the Office of the Children's Guardian focused on capability building, which consists of providing sector support, resource development, training and eLearning, and is ongoing. Building organisations' understanding of the Child Safe Standards is the foundation of the Child Safe Scheme. Evaluation, compliance and specific Child Safe Action Plans required by certain NSW government agencies are other aspects of the scheme.

Child safe compliance

On 1 February 2023, Part 9A of the *Children's Guardian Act 2019* commenced, which allows the Children's Guardian to take action to make sure organisations comply with the Child Safe Standards. In March 2023, we commenced monitoring assessment activities as part of a pilot program. The monitoring assessment process includes:

- reviewing an organisation's systems and processes
- inspecting an organisation's premises with permission from the head of the organisation
- directing an organisation to complete a Child Safe Self-Assessment.

We can also issue a monitoring assessment report to help an organisation improve its compliance with the Child Safe Standards. The organisation must respond to the recommendations made in that report.

As part of the initial phases of the pilot, we met with 24 stakeholders to inform them of the compliance program and conduct pilot monitoring activities.

Child Safe Self-Assessment

In early 2023, we launched the Child Safe Self-Assessment, which has been designed for child safe organisations to assess their implementation of the 10 Child Safe Standards.

The self-assessment is web-based, takes an educative approach, and is free for organisations to use. Upon completion, the assessment provides organisations with a tailored Assessment and Action Report for them to implement to improve their child safe practices. This information is also provided to us so we can identify future areas for capability building for each sector.

Organisations that are child safe create strong cultures, adopt strategies and act to prevent harm to children. The self-assessment is designed to help organisations recognise how they can create, maintain and improve their culture, with strong leadership and shared responsibility to keep children safe from abuse and harm.

From the launch of the Child Safe Self-Assessment in January 2023 to 30 June 2023, we received 1,960 self-assessment submissions. This includes multiple completions from the same organisation. The early childhood education sector had the highest number of completions of 877, which makes up 45% of all submissions.

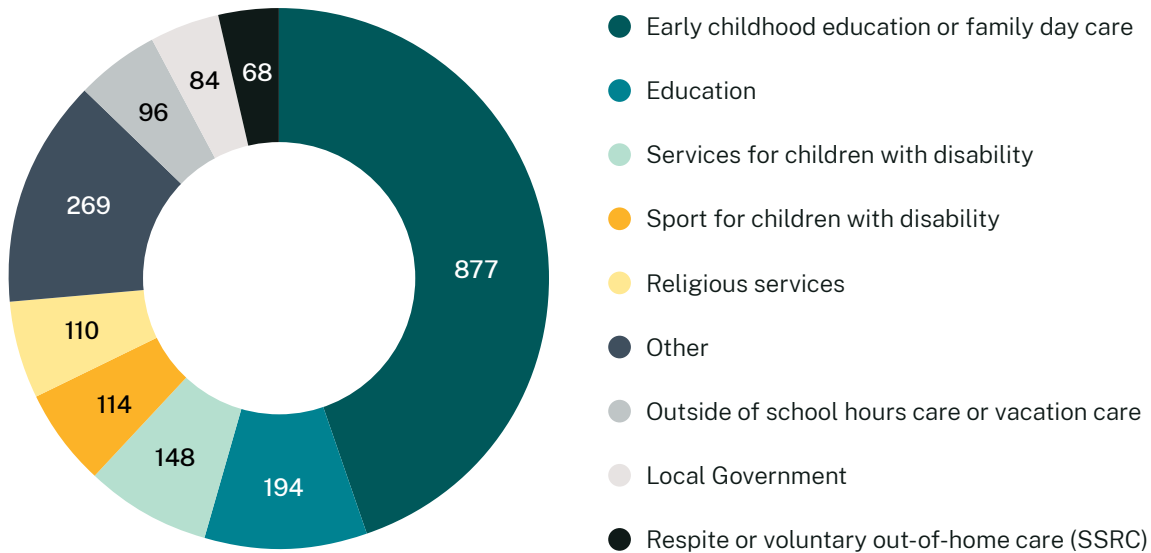


Table 1: Child Safe Self-Assessment completions to June 2023 by sector

Organisation sector	Total Submissions
Early childhood education or family day care	877
Education	194
Services for children with disability	148
Sport for children and young people	114
Religious Services	110
Other	100
Outside of school hours care or vacation care	96
Local Government	84
Respite or voluntary out-of-home care (SSRC)	68
Health services	44
Clubs or other bodies	39
Out-of-home care	36
Counselling or mental health services	23
Child protection	14
Services for Aboriginal or Torres Strait Islanders	12
Justice corrective services	1
	1,960

Note that some of these sectors overlap; for example, an organisation might identify as sport for children and young people, as well as clubs and other bodies. People completing the self-assessment can only choose one sector.

Figure 2: Total submissions



CASE STUDY



Child Safe Self-Assessment a useful tool

Local councils that work across different sectors have found the Child Safe Self-Assessment helpful to identify and address areas where there may be gaps or overlaps implementing the Child Safe Standards.

Local councils provide different services that can include sport and recreation (such as aquatic centres), early education, and other services for children and young people such as youth centres and libraries. These areas may have different priorities and operational roles, so it can be a challenge to implement a whole-of-organisation change such as the Child Safe Standards.

Having each area complete the Child Safe Self-Assessment has transformed the way local councils can address their obligations under the Child Safe Scheme. They can identify where work may be duplicated or where an expert may be available to look after, strengthen, and share expertise to improve child safe practice in an area of concern. Gaps in implementing the Standards can be identified and child safe policies strengthened to make sure a coherent strategy is in place to keep children safe.



Child Safe Evaluation

We have started evaluating the Child Safe Scheme to understand and assess its effectiveness and impact. We collected internal data measures related to our awareness raising and capability building activities, to explore the reach and impact of our work, and establish baseline data measures.

In 2022, we engaged with the Australian National University's Social Research Centre to develop an evaluation framework, and again in early 2023, to develop an evaluation plan.

The evaluation framework provides a rationale and structure for assessing the reach and impact of the Child Safe Scheme's implementation, underpinned by a theory of change. The evaluation plan is expected to be completed by the end of 2023.

We expect the evaluation work to continue for the next 3 to 4 years.

Ongoing capability building

We continued our capability building program to support child safe organisations meet their obligations under the scheme. Over the year, we had more than 93,000 engagements with our child safe training and resources. Building organisations' understanding of the Child Safe Standards and helping them to embed a culture of review and continuous improvement is the basis for the Child Safe Scheme. We continue to provide new resources, sector support and training to support organisations to be child safe.

New resources

The Office of the Children's Guardian produced more than 35 new resources in 2022–23 for organisations to use and to educate them about implementing the Child Safe Standards.

We created these new resources in many different formats, including handbooks, animations, videos, eLearning and our Child Safe Podcast. This helps meet the needs of different sectors and the unique audiences within each sector. Our content covers topics from general information about the Child Safe Standards, risk management and reporting obligations, to specific issues such as grooming. Our child safe resources continue to be well used with 60,979 downloads from our website in the past year.

Sector engagement

Our work in partnership with peak bodies and other government agencies about the Child Safe Scheme continues to develop. Sector engagement has included tailored training, presentations at conferences and involvement in events. This year we attended many conferences and events, including the Catholic Education Law Symposium 2022, the AbSec Quarterly Sector Forum, the Australian Christian Churches Annual Conference, the Diocese of Broken Bay Bishop's Breakfast, the Archdiocese of Sydney Safeguarding Conference for Clergy, the Local Government Professionals NSW Governance Conference, the Rugby League Community Football Conference and the Outdoor Industry Masterclass Sports Foyer NSW Sports Industry Conference.

In partnership with the Office of Sport, we delivered the Child Safe Sport eLearning. We have also developed videos for the sector on child safety in sport and recreation. These resources have been used by more than 4,900 people in the past six months.

Our dedicated Child Safe Officers support each sector that falls under the Scheme. This approach allows us to create tailored training and resources based on each sector's specific needs. In 2022–23, we had contact about the Child Safe Scheme and standards through meetings, phone calls and other engagement with 2,500 stakeholders.

CASE STUDY



Partnering with other sectors to keep children safe

Our partnership with the Office of Sport continues to deliver high-quality resources. Earlier this year, we delivered the Child Safe Sport eLearning course. Since it launched, 3,799 people have completed the course. As part of the Child Safe Sport eLearning, we created a grooming video. This is one of our most watched videos with

more than 8,100 views, not only in NSW but across Australia.

Building on this successful collaboration, we now have two further partnerships with local councils and the regulator of early childhood education services, to develop eLearning specific to their sectors.

Training and capability building

As the impacts of COVID-19 lifted, we saw an increased demand for face-to-face training, particularly around the Child Safe Standards. Online training continued to attract significant interest – more than 12,500 people completed at least one of our eLearning modules, and more than 69,000 watched either a child safe video or recorded webinar.

All our resources, training and eLearning sessions are free and give participants practical knowledge on how to create, maintain and improve child safe practices.

Table 2: Child safe activities undertaken in 2022–23

	Face-to-face events	Online events	Number of organisations	Total people participating
Child Safe Standards training and webinars	159	114	2,658	9,236
SAFE Series	27	32	724	1,830
eLearning	NA	12,724	NA	12,724
Video views*	NA	NA	NA	69,353
Total	186	12,870	3,382	93,143

* Video views combines views of child safe videos and webinar recordings.



CASE STUDY



Helping organisations continuously improve their practice

We continue to see positive results from our sector-specific engagement. After our involvement in a webinar for a sporting peak body and its associations that reached agencies state-wide, we received feedback from clubs about how they were able to put in place new processes based on information provided in the webinar.

One club was able to call out a breach to its code of conduct after a club member noticed an adult referee was inappropriately communicating directly one-on-one with a

young person, which is not in line with the Child Safe Standards. The club strengthened its reporting processes and initiated disciplinary procedures.

Another club updated its current child safe practices based on feedback it received about unacceptable behaviour from one of its referees, and a third club took the opportunity to manage a situation where one of its long-term members was found to have engaged in criminal conduct.

Child Safe Action Plans

Under the Child Safe Scheme, certain NSW public sector agencies are required by the *Children's Guardian Act 2019* to prepare a Child Safe Action Plan.

A Child Safe Action Plan is a high-level strategic document that details how prescribed NSW Government agencies will raise awareness about the importance of child safety, build capability of child safe organisations to implement the Child Safe Standards, and improve the safety of children in NSW. Child Safe Action Plans must include strategies that cover the child-related services the agency offers, as well as any organisations they fund or regulate that fall under the scope of the Child Safe Scheme.

The following prescribed NSW Government agencies are required to prepare a Child Safe Action Plan due to their significant scope of influence:

- Department of Communities and Justice*
- Ministry of Health*
- Department of Education

- Office of Sport*
- Office of Local Government
- Inspector of Custodial Services*
- NSW Education Standards Authority.

* Those with an asterisk in the list above have approved plans.

Child Safe Action Plans recognise the important role that these agencies play as leaders in creating child safe cultures across their sectors.

As of June 2023, we have reviewed each agency's draft plan. Approved plans must be made publicly available by prescribed agencies and are available on our website.

Throughout 2023 to 2026, agencies will begin implementing their first Child Safe Action Plan. As part of the implementation process, each agency must report on their progress through their annual reports. We can also ask for additional progress reports throughout the implementation period.

Working with Children Check

People who work or volunteer to provide services to children and young people in NSW are required to have a Working with Children Check application or clearance.

The Working with Children Check is one of a range of measures administered by the Office of the Children's Guardian to create safe places for children.

One of the key strengths of the Check is the integrated continuous checking system which enables us to respond quickly to risks through continuous monitoring of police and workplace records.

1,877,416 people in NSW hold a Working with Children Check clearance.

Types of applications

A person who is in paid or volunteer child-related work must have a valid Working with Children Check application before they commence their work. Once cleared, a Working with Children Check is valid for 5 years. People who want to continue in child-related work as their Check reaches its expiry date, must apply for a renewal of their Check.

2022-23 marked the 10 year anniversary of the new Working with Children Check, and the beginning of the second renewal period.

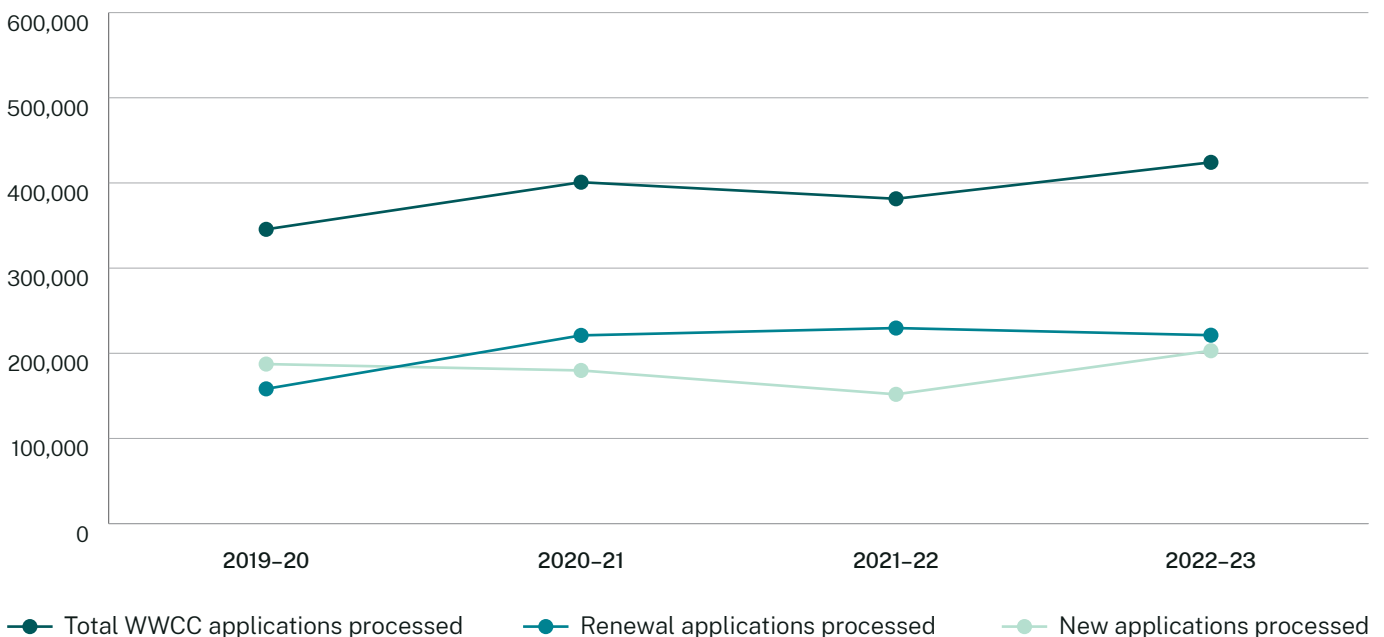
In 2022-23 a total of
424,203
applications were processed.

Of these applications:
202,977 (48%)
were new applications.

221,226 (52%)
were applications to renew.



Figure 3: Working with Children Check applications processed



Screening and information exchange

The Working with Children Check includes screening from a number of internal and external sources. It includes a national criminal history check through the Australian Criminal Intelligence Commission and NSW Police. Police information includes juvenile offences, offences against adults, and charges that did not result in a conviction. Offences that do not involve children are included in our decision making because of their potential impact on children, even though a child may not have been the primary victim.

We also receive information about workplace records from the Reportable Conduct Scheme and information shared between prescribed bodies under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*. In 2022-23, we received 304 notifications relating to workplace records or Chapter 16A notifications from prescribed bodies, including the Department of Communities and Justice. The cumulative total on 30 June 2023 was 6,268 workplace records and Chapter 16A notifications held in the Working with Children Check system since June 2013.

In September 2022, we connected to the National Reference System, which allows us to receive notifications about a person who is barred from working with children in any other state or territory. The *Child Protection (Working with Children) Act 2012* was also amended to require people who have been barred in other states or territories to undergo a risk assessment.

In 2022-23, we received 275 notifications via the National Reference System about people who have been barred in other states or territories.

CASE STUDY



Connecting to the National Reference System

Since the Royal Commission into Institutional responses to Child Sexual Abuse handed down its final recommendations, the Office of the Children’s Guardian has been steadfast in implementing Working with Children Check National Standards and making legislative changes to ensure we deliver on those recommendations.

In September 2022, the NSW Working with Children Check connected to the National Reference System (NRS), a database established by the Australian Government to facilitate sharing of information with other states and territories about those who pose a risk to the safety of children. The NRS allows us to be notified if any person who holds, or applies for a NSW Working with Children Check, is barred in any other state or territory.

Being able to access this information strengthens the existing continuous monitoring of new records, which is a key strength of the NSW scheme. There have been many examples of where access to this information has helped to keep children safe.

We were notified via the NRS that a person holding a clearance in NSW had been barred from working with children in Victoria. Following enquiries, we found that the person had recently been charged with offences in Victoria which are disqualifying offences in NSW. With this information, we cancelled the person’s Working with Children Check.

In another instance, we were informed via the NRS that a foster carer with a NSW Working with Children Check had not received a clearance in Western Australia due to

recent child-related charges. Based on this information, we placed an interim bar while we made further enquiries. These revealed that this person’s partner had been charged with the same offences and also held a Working with Children Check clearance in NSW. As a result of this information, we also placed an interim bar on the partner’s Check, while we undertook risk assessments on both cases.

We continue to advocate for a stronger NRS that not only shares information about people who are barred from working with children, but also shares information about offences that may not reach the threshold of a bar in another state or territory. Under the current NRS, automatic notification of relevant criminal charges and workplace findings to WWCC screening bodies in other jurisdictions only occurs in those circumstances where:

- the person holds a WWCC in the jurisdiction where the charge is laid, or where a sustained serious reportable conduct finding is made, and
- the outcome of the charge or reportable conduct finding is that the person is barred from working with children in that jurisdiction.

We believe that where a person has a Working with Children Check clearance in a state or territory, then the screening body in that state or territory should be promptly notified of any relevant criminal charge laid against that person, regardless of where the alleged conduct occurs in Australia. The same process should apply in relation to serious employment-related reportable conduct findings.



Cross border information exchange and national roll-out of Reportable Conduct schemes

A separate but related issue, is the need to ensure consistent practice across the country in relation to the ability to exchange critical risk related information. Within NSW, the information exchange provisions set out in Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1997* are well utilised among 'prescribed bodies'. However, there are significant impediments to sharing information across state borders. This is in contrast to the recommendation made by the Royal Commission into Institutional Child Sexual Abuse, that there should be capacity for a seamless exchange of information across borders, based on the same principles as Chapter 16A. This is an area where we continue to advocate for change.

The Royal Commission also endorsed the NSW Reportable Conduct Scheme. Reportable Conduct Schemes play an important protective role, by enabling the early identification and reporting of alleged inappropriate behaviour, and promoting

appropriate, transparent and fair responses to such alleged behaviour. In NSW, information obtained through a reportable conduct investigation which indicates a person poses a risk to children will be shared with staff administering the WWCC scheme, and if the information indicates that a person poses an unacceptable risk to children, then they will be barred from working with children.

However, contrary to the Royal Commission's recommendations, not all Australian jurisdictions currently operate a Reportable Conduct Scheme. This has implications in terms of safeguarding, not only within those states that are yet to implement a Reportable Conduct Scheme, but more broadly across the country, as these states represent a 'weak link' in the national safeguarding system. For example, if all jurisdictions were to implement reportable conduct schemes, this could enable serious employment-related findings against relevant employees to be referred to, and considered by, all of the working with children check screening agencies which are operating in every jurisdiction across Australia.

CASE STUDY



Partnering with NSW Police to protect children

Recent results from ongoing collaboration between the Office of the Children's Guardian and NSW Police show the benefits we can achieve for children when we work in partnership with other organisations in protecting children.

For example, we assist police to prioritise their inquiries by identifying which of their targets have a current Working with Children Check clearance. We are also able to tell them if any of the targeted individuals had previously held a clearance.

In one case, Working with Children Check information identified that an individual police were investigating had worked in

several child-related roles in educational and community organisations. This information was relayed to police, to help them prioritise their investigation. Days after receiving the information, the NSW Police charged the individual, and we barred them from child-related work.

As part of our real-time continuous monitoring, we have also established information sharing arrangements with NSW Police, so that details of charges for online and other child abuse offences are sent directly to us, which allows us to swiftly cancel a Working with Children Check clearance.

Working with Children Check outcomes

Automatic clearance

Where screening shows an individual does not have any police or workplace records, or their records are not relevant to working with children (for example driving offences), clearances are issued automatically.

91% of individuals were cleared within 5 days of applying when there were no relevant records.

Applications requiring records review

Where screening shows an individual has police or workplace records, or has been barred in another jurisdiction, we are guided by Schedule 1 and 2 of the *Child Protection (Working with Children) Act 2012* to decide the outcome of their application.

We conduct a review to decide if the individual should be:

- automatically disqualified (due to Schedule 2 records)
- referred for risk assessment (due to Schedule 1 records or records relevant to the safety of children) or
- cleared (no records relevant to the safety of children).

In 2022–23, 49,782 applications returned police or workplace misconduct records and we received 275 notifications regarding individuals who were barred in other states or territories. We conducted further review for all of these applications.

Clearance granted after records review

41,874 individuals were granted a clearance where they had no records relevant to the safety of children.

Automatic disqualification

Records under Schedule 2 of the *Child Protection (Working with Children) Act 2012* result in an automatic disqualification from working with children. Equivalent records from other states and territories, including offences under a law of a foreign jurisdiction, also lead to either an automatic disqualification or a risk assessment.

In 2022–23, there were 432 applicants who were automatically disqualified from working with children due a Schedule 2 offence.

Referral to risk assessment

If a person has records that fall under Schedule 1 of the *Child Protection (Working with Children) Act 2012*, the records **must** be subject to a risk assessment before a decision on the individual's Working with Children Check status is made. Additionally, section 15(3) of the Act permits the Children's Guardian to refer a matter for risk assessment where no Schedule 1 record is present, if the person has records considered relevant to the safety of children.

In 2022–23, 3,151 individuals were referred for risk assessment due to the presence of a record listed in Schedule 1 or other records relevant to the safety of children.



Risk assessment outcomes

When a risk assessment is required, we request further information from the applicant and other agencies, to ensure we have all relevant information before we decide to grant or refuse a clearance. We encourage applicants to participate in the process.

Risk assessment factors include:

- the applicant's conduct: seriousness of any offences, conduct since the offence
- their age at the time of the offence, and their age now
- ages of the victims, vulnerability, and their relationship to the applicant
- the likelihood of recurrence and the impact on children.

Outcomes of risk assessments include termination due to non-response, granting a clearance or, refusing or cancelling an application. In 2022–23, we finalised 3,000 applications that were referred to risk assessment.

Interim bar during risk assessment

We can impose an interim bar while the risk assessment is conducted if there is a likely risk to the safety of children.

In 2022–23, we imposed 481 interim bars.

Clearances granted following risk assessment

Legally, we must grant a clearance to a person who is subject to a risk assessment unless we are satisfied that the person poses a risk to the safety of children.

In 2022–23, we granted clearances to 1,049 individuals following a risk assessment.

Refusal or cancellation following risk assessment

We must refuse or cancel a Working with Children Check application if we are satisfied that the person poses a real and appreciable risk to the safety of children.

In 2022–23, we refused or cancelled 59 applications following risk assessment.

Applications closed

If the applicant does not respond to a written request for information within 3 months, we can close applications or cancel clearances. We have worked to increase engagement in the risk assessment process by simplifying our written correspondence and phone contact and reducing identified barriers that may stop people from engaging in the risk assessment process.

In 2022–23, we closed 1,873 applications because the applicants did not provide a reasonable excuse for failing to provide us with the information we had requested. These individuals can make a new application if they still require a Working with Children Check.

A proposal to enhance probity checking more broadly

We have carried out some preliminary scoping work regarding the potential for our office to provide a 'one stop shop' probity check, that would include both a WWCC and a national Criminal Record Check.

Our initial analysis indicates that, in relation to the criminal record component of the check, we should be able to provide this one-stop streamlined service, for substantially less than the fee that agencies are currently incurring. Work in this regard is ongoing.

CASE STUDY



Maranguka Collaboration agreement

We worked with the Bourke Tribal Council to broker an historic agreement with the Maranguka Community Hub – the Tribal Council’s operational arm – to ensure that the Working with Children Check is implemented fairly and in a culturally accessible way in Bourke.

The Tribal Council, through Maranguka, worked with us to develop arrangements that give people who have had problems in their past the ability to have their more recent history considered in decisions about whether they can work with children. The agreement recognises the rights of individuals to make their own representations, as well as allowing Working with Children Check applicants to obtain references from Aboriginal community leaders in Bourke who can speak about the changes they have made to their lives.

The agreement recognises that those who have demonstrated they have the courage to effectively deal with their past problems can often be strong role models for children and young people.

The agreement reflects the many events and activities we have been involved in with Aboriginal communities in NSW. Our intent is to listen, empower, engage and co-design with communities to develop service delivery options that are practical as well as culturally respectful, while still prioritising the safety of children and young people.



Table 3: Risk assessments processed and outcomes

Activity	2020-21	2021-22	2022-23
Total WWCC applications processed	400,855	381,405	424,203
New WWCC applications processed	179,837	151,790	202,977
Risk assessments with outcomes	3,642	2,600	3,000
Individuals automatically barred due to Schedule 2 records	434	408	432
Individuals interim barred during risk assessment	552	303	481
Individuals barred after risk assessment	82	58	59
Individuals cleared following risk assessment	780	695	1,049
Applications terminated after referral to risk assessment	2,331	1,847	1,873

Table 4: Refusals for a Working with Children Check

Year	2020-21	2021-22	2022-23
Working with Children Checks applications processed	400,855	381,405	424,203
Number of barring decisions	516	466	491
% of barring decisions (of the total applications each year)	0.13%	0.12%	0.12%

Working with Children Check compliance

The *Child Protection (Working with Children) Act 2012* and the *Child Protection (Working with Children) Regulation 2013* establish legal obligations for employers that offer services to children and engage paid or volunteer workers in child-related work.

To be compliant, employers have a legal responsibility to:

- register as an employer in the Working with Children Check system
- verify the Working with Children Check clearances of workers in child-related roles
- remove any barred or unauthorised people from child-related work
- maintain up-to-date records showing they have verified workers' Checks.

Verification enables the employer to confirm that the worker has been cleared to work with children, and it also lets our office know the details of any employers we will need to contact in circumstances where we have barred a worker from child-related work. This helps to reduce the potential risk of a child being harmed.

We monitor compliance against these legal requirements both proactively and reactively.

Proactive compliance is targeted towards high-risk organisations using intelligence from the Working with Children Check system and trends based on data collated through previous compliance activity.

Reactive work includes matters that come to us from the Working with Children Check system through processing check applications, risk assessments and organisations registering as employers. We also receive referrals and reports of concern from organisations, government agencies, members of the public and other areas within the Office of the Children's Guardian.

Our monitoring work highlights a need for substantial improvement in employers' compliance with obligations under the Working with Children Check scheme, particularly in relation to verifying worker's Checks.

Auditing and monitoring compliance

In 2022–23, we contacted 2,006 employers as part of our compliance plan. This involves sending audit notices and requests for information with the aim of obtaining compliance. This represents an increase of just under 30% on the contacts made in the previous financial year.

The nature of our auditing and monitoring activities is discussed below.

CASE STUDY



Impact of our auditing and monitoring work

We collaborated with a district sporting association to raise awareness of employer obligations under the Working with Children Check scheme among their clubs. We were invited to present information on employer obligations at the association's general meeting. Over 40 clubs attended this meeting. Following our presentation, we were provided a list of clubs by the association to assess their members' compliance with their obligations under the Working with Children Check scheme.

We contacted the clubs that we identified as non-compliant, reminded them of their obligation to verify workers in child-related work, and explained that verification records are the only sure mechanism we have to alert employers to a change in a worker's Working with Children Check status.

Through this work, the association and all of its clubs achieved 100% verification of their volunteers who worked with children.



New employer registrations requiring attention

Employers are required to register as an employer in the Working with Children Check system to verify their workers' status. We contact any employers who have recently registered, but have not verified any workers, to support them to meet their compliance obligations.

In 2022-23, there were **2,848** new employer registrations created.

Of these, **1,155** did not immediately verify any workers, and were contacted by the Office of the Children's Guardian:

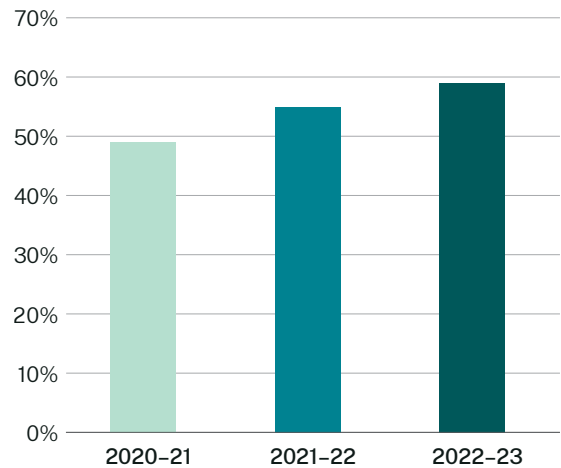
868 were informed of their legal obligations to verify.

Of these, **84** required further follow up to reach compliance.

177 were organisations that had a duplicate registration.

110 were not in child-related work and were made inactive in the system.

Figure 4: Percentage of new employers verifying immediately after registration, 2020-21 to 2022-23



There has been an increase in the percentage of new employers that verify workers immediately upon registering in the Working with Children Check system. Our increased communication and compliance work across sectors continues to build understanding of requirements, and this critical work will continue to be a key focus in the 2023-24 financial year.

On 30 June 2023 there were **33,469** active employer registrations in the Working with Children Check system.

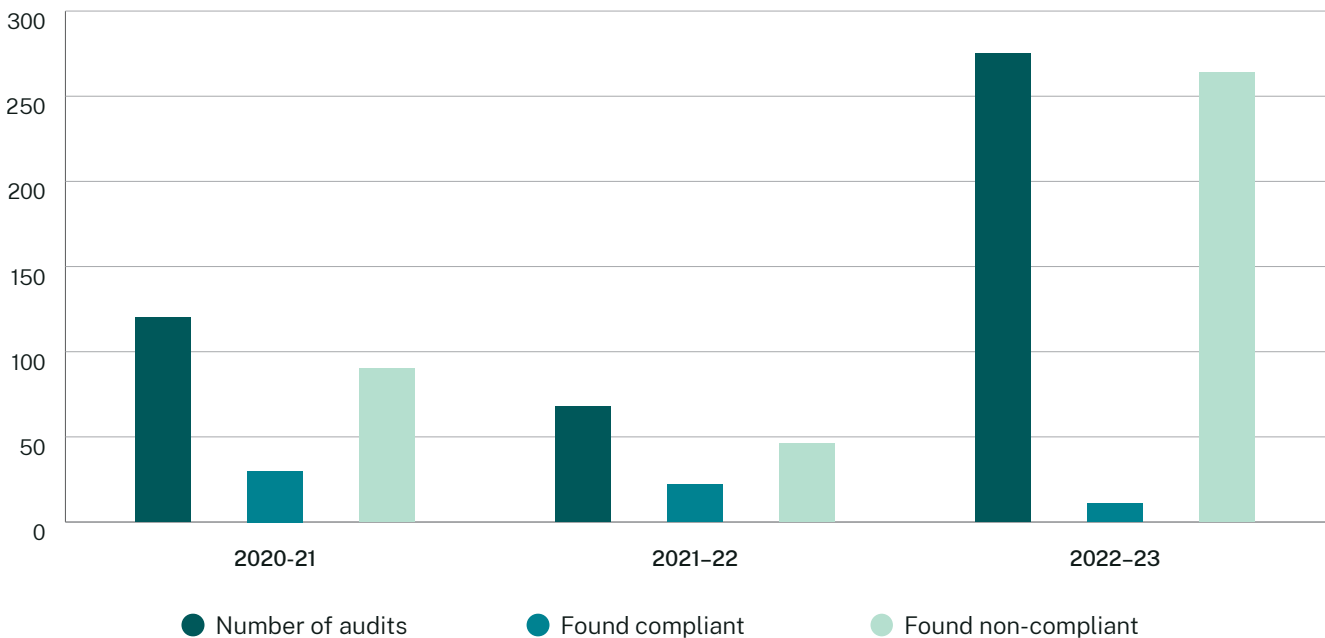
Targeted audits

In our compliance audit program, we targeted sectors with low verification rates and environments that statistically have an increased risk for children. The organisations audited were assessed on their compliance with the *Child Protection (Working with Children) Act 2012*.

In 2022–23, we audited 275 employers from which we found 264 (96%) to be in breach of the legislation. A collective total of 1,851 breaches were identified. Of these, 1,518 breaches related to Checks that had not been verified prior to commencement of child-related work or re-verified when the Check was renewed. Through the audits we issued 259 warning letters and 5 Penalty Infringement Notices.

Through our auditing and monitoring work we have noticed that organisations audited are helping spread the message about the importance of verifying an individual’s Working with Children Check. Recently, a sports organisation that was audited said they were going to make sure that their peak governing body communicated to member organisations why verifying a Working with Children Check is so important.

Figure 5: Number of audits, including rate of compliance compared to non-compliance, 2020–21 to 2022–23





There has been a significant increase in the number of audits conducted in 2022–23, when compared to 2020–21 and 2021–22. The lower number of audits conducted in 2021–22 was due to the impact of COVID-19. Our audit activities focus on ensuring employers are registered; verify their workers in child-related work; have no barred workers working in child-related roles; and maintain proper records.

The increase in the number of non-compliant organisations and decrease in the number of organisations found to be compliant can largely be attributed to improvements we made to our case selection strategy to better target our audits. Non-compliance with the requirement to verify workers' Working with Children Checks is the main area of non-compliance identified, and an area we target through awareness raising campaigns and sector engagement.

Notifications for change in Check status

The Office of the Children's Guardian is required to contact employers when:

- an applicant is barred or an interim bar is imposed, or
- where an application for a Working with Children Check is closed prior to it being finalised.

Barred applicants

Where an applicant is barred, or an interim bar is imposed while a risk assessment takes place, we contact verifying employers to establish if the person is still engaged in child-related work. If they are, we notify the employer of the worker's change in status and require that the person is removed from child-related work. The employer is required to confirm in writing that this has been done.

Noting that one barred person can have multiple employers, in 2022–23 we:

Dealt with **979** barred applicant decisions (an increase from 801 in 2021/22).

Contacted **1,049** employers to establish if the applicant was working there with children. We found that for a substantial number, the applicant was no longer employed there.

Issued **235** notices to employers about their employee's change in status, requiring them to remove the worker from child-related work.

If a barred person has not been verified, we use all data available to try to identify any possible employer that may not have verified the person. No employer was identifiable for 492 applicants whose Check clearance was revoked.

Closed applications

An application is considered closed:

- when an applicant requests to withdraw their application, which requires approval of the Children's Guardian
- when an applicant surrenders their clearance with the approval of the Children's Guardian
- if a person subject to a risk assessment has failed to provide further information within 3 months of our request without a reasonable excuse
- if a person has provided incorrect or incomplete information on their application.

When an application is closed, the applicant must not commence or continue in child-related work. When this happens, employers are contacted to advise that the worker is not permitted to work with children.

In 2022–23 we issued:

1,825 notices to employers who had verified an applicant whose application was closed because they did not participate in the risk assessment process.

Of these, **43** applicants were found to be still working in child-related roles but were removed after employers were notified.

815 notices to employers due to administrative closures, such as the applicant providing incorrect information or not disclosing an alias name.

28 people were removed from child-related work when the employer was notified.



Allegations

The Office of the Children's Guardian reviews instances of alleged non-compliance with the *Child Protection (Working with Children) Act 2012* and the *Child Protection (Working with Children) Regulation 2013*. Allegations are received from many sources including government agencies, internally or from concerned members of the public. All allegations are treated seriously and are investigated thoroughly.

In 2022–23, we received 239 instances of alleged non-compliance or misconduct towards children with 186 of these received through our public Report a Concern portal. Of these instances:

- 66 were resolved
- 173 were referred to different areas within the Office of the Children's Guardian, depending on the allegation (with work with external organisations being undertaken, as needed).

Investigations

Some instances of alleged non-compliance with the *Child Protection (Working with Children) Act 2012* involve a high risk to children. These include allegations that a barred worker or an individual without a Working with Children Check has been engaged in child-related work or allegations that an employer has repeatedly failed to verify their employees' Working with Children Checks.

Allegations that are determined as posing a higher risk to children are investigated. In 2022–23, we completed 99 investigations into alleged breaches of the *Child Protection (Working with Children) Act 2012*, a 67% increase compared to the previous financial year.

CASE STUDY



The importance of verification

During a risk assessment, an individual disclosed they were working as a tutor for an employer that organised private tuition services to children. The individual was subject to a bar and was prohibited from engaging in child-related work.

The employer had failed to verify this person through our Working with Children Check system. This meant that until it was disclosed, we did not know about the employment and so we were unable to disclose the bar to the employer.

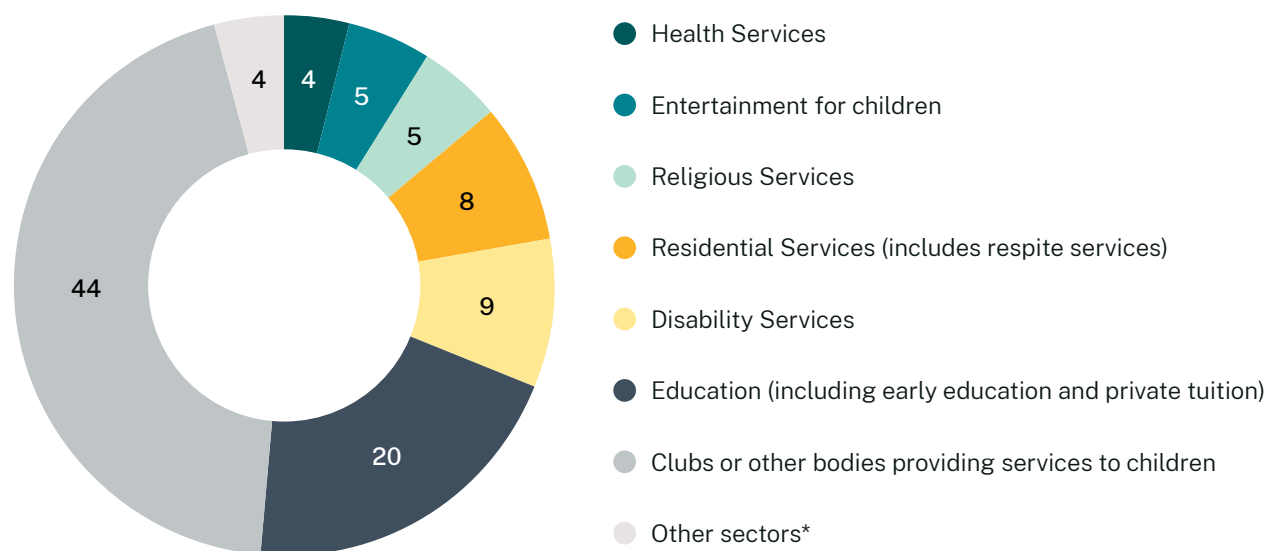
This matter was investigated to establish:

- who their employer was
- whether the worker was in child-related work, and
- whether the employer failed to verify any other relevant workers.

The barred worker was removed from child-related work as soon as the employer was confirmed and notified. The investigation identified many breaches, including failures to verify workers before they commenced child-related work, and the employer was issued a fine.

The employer subsequently demonstrated that they had implemented and improved recruitment processes to ensure required workers had their Working with Children Check verified prior to commencing employment. They also improved their relevant record keeping practices, including ongoing monitoring of the expiry dates of the Working with Children Checks of their workers. In addition, they implemented quarterly internal records audits to check ongoing compliance.

Figure 6: Investigations by sector, 2022–23



NOTES:

Investigations conducted in the education sector include organisations or individuals providing early education and private tuition services.

* Other sectors include child protection services, school cleaning services and youth workers.

Administrative enforcement can include reminder letters and warning letters to caution an employer or individual about their legislative obligations and what they need to do to be compliant in future.

We may issue penalty infringement notices to employers for failing to comply with their Working with Children Check obligations, having regard to:

- the employers’ degree of culpability, and
- the potential risk to children created by alleged breaches.

Table 5: Outcomes of investigations completed, 2022–23

Investigation outcome	Total
Employer found to be compliant	22
Not enough information to proceed	7
Not in jurisdiction	11
Reminder issued	13
Warning issued	40
Fine issued	6
Total	99



Litigation advice and operational support

The Office of the Children's Guardian manages litigation relating to administrative decisions made by the Children's Guardian, which primarily involve Working with Children Check appeal matters to the NSW Civil and Administrative Tribunal (NCAT) and the Supreme Court.

In 2022–23, there were 44 applications for review:

- 20 by applicants to NCAT seeking review of the Children's Guardian's decision to refuse or cancel a Working with Children Check clearance

- 24 applications to NCAT seeking an order that the applicant is not to be treated as a disqualified person. For these applicants, who are automatically barred from engaging in child-related work, an enabling order must be granted by NCAT before a Working with Children Check clearance can be issued.

In addition, there were 2 ongoing appeals to the Supreme Court.

We use key findings from court and tribunal decisions to refine our decision-making processes.

CASE STUDY



Review of WWCC decision appealed at NCAT

EQE was a 52-year-old male who held a Working with Children Check clearance since November 2015 and was a martial arts instructor.

In January 2017, through the continuous check event, the Children's Guardian was notified of criminal proceedings against EQE and cancelled his clearance. The alleged offences involved aggravated sexual and indecent assault charges, in respect of EQE's stepdaughter. In December 2018, EQE was found not guilty of the charges against him. He then made an early application for a Working with Children Check clearance. Following a risk assessment, the Children's Guardian refused that application. EQE sought a review of this decision to refuse his application at NCAT.

In November 2021, the tribunal set aside the decision of the Children's Guardian and ordered the Children's Guardian to issue EQE a clearance. The tribunal concluded that as the circumstances relating to why EQE was charged did not occur on the balance of probabilities, EQE did not pose a risk to the safety of children.

We appealed the tribunal's decision to the Supreme Court on an error of law. The Supreme Court held that the tribunal fell into error by not assessing whether the 'possibility' of the alleged conduct occurring may have supported a view that he posed a risk to the safety of children. The court ordered that the tribunal's decision be set aside and remitted the matter to be re-heard. The matter was re-heard in January 2023, where the tribunal affirmed the original decision of the Children's Guardian in February 2021 to refuse EQE's application for a clearance.

CASE STUDY



Interim bar leading to refusing WWCC reviewed by NCAT

FJL was a 34-year-old lawyer who sought a clearance to work in the education sector. The proceeding related to a review of two decisions. The first application sought a review of the interim bar imposed on FJL during the risk assessment process, and the other was an application for an administrative review of the Children's Guardian's decision to refuse FJL a clearance.

FJL applied for a clearance in October 2021. FJL's criminal records triggered a risk assessment, and he was subjected to an interim bar. Although not convicted, the charges laid against FJL concerned allegations made by three separate complainants (aged 19–21 years old):

- rape (2008)
- sexual intercourse without consent and assault with act of indecency (2014)
- sexual intercourse without consent and aggravated sexual assault (2017).

There was also a police report identifying FJL as a person of interest in an incident involving aggressive conduct in the context of a sexual relationship in March 2022.

During the interim bar review proceedings, the Children's Guardian decided to refuse a clearance to FJL.

The tribunal affirmed both decisions of the Children's Guardian to interim bar and refuse a Working with Children Check.



Reportable Conduct Scheme

Upon the commencement in March 2020 of the *Children's Guardian Act 2019*, the Reportable Conduct Scheme has been administered by the Office of the Children's Guardian. Our primary functions under the Reportable Conduct Scheme are:

- providing oversight and guidance on reportable conduct investigations
- conducting investigations and inquiries into reportable allegations and convictions and the response to, and handling of, these matters by relevant entities
- ensuring appropriate action is taken by a relevant entity
- monitoring a relevant entity's systems for preventing, detecting and dealing with reportable conduct and reportable convictions
- providing advice and education.

The Reportable Conduct Scheme requires relevant entities from both government and non-government sectors to notify us of reportable allegations and reportable convictions against their employees. About 15,000 organisations across NSW have this reporting obligation.

Under the Scheme, 'employee' is defined broadly to include contractors, volunteers and people otherwise engaged by the relevant entity to provide services to children.

After the initial notification of a reportable allegation or conviction, which must be made within 7 business days, relevant entities have additional reporting obligations at 30 days and on completion of their reportable conduct investigation. The Children's Guardian may require further information from the entity; can exercise own motion inquiries powers; and we also have a complaint-handling function in relation to the way in which relevant entities respond to reportable allegations or convictions.

During 2022–23, **3,661** matters were reported to the Reportable Conduct Scheme:


2,054
notifications


1,560
enquiries


47 complaints.

In addition, we initiated 746 inquiries under our general oversight, monitoring, complaint-handling and systems inquiry powers. This was a 57% increase in inquiries on the previous year, reflecting our increased resources in 2022–23. These inquiries were responded to satisfactorily and resolved. The 2 matters we escalated to investigation in 2021–22 are close to being finalised.

Notifications and trends

Overall notification rates were 34% higher over 2022–23 compared to the previous year (36% higher when notifications not in jurisdiction are excluded), and this is attributable largely to the following factors:

- a return to typical schooling conditions resulting in significantly increased notifications from the education sector
- improved compliance within the religious sector
- increased funding for the administration of the reportable conduct scheme, which has allowed a greater level of scrutiny over entities' compliance with reporting obligations.

We closed 1,925 notification cases over the reporting period, which was an increase of 20% on the previous year – again attributable to increased resources.

Table 6: Number of notifications received by relevant entity type

Type of relevant entity	2020–21*	2021–22*	2022–23
Adoption service provider**	0	0	0
Agency providing substitute residential care***	35	12	12
Approved education and care service	263	211	277
Department of Communities and Justice	343	299	360
Department of Education	423	228	360
Health organisations****	32	34	37
Non-government school	126	102	177
Non-government designated agency*****	594	517	618
Other public authorities	17	56	70
Religious body	56	47	85
Agency providing specialised substitute residential care*****	13	21	51
TAFE	3	6	5
Agency not in jurisdiction	4	0	2
Grand Total	1,909	1,533	2,054

*Figures for 2020–21 and 2021–22 have been updated from last year's Annual Report.

**Adoption Service providers were introduced into the *Children's Guardian Act* as Schedule 1 entities 1 September 2022

***Prior to 1 September 2022, this category of Schedule 1 entity included – among others – voluntary out-of-home care service providers that were not registered with the OCG. Those services are now captured as 'Agencies providing specialised substitute residential care'

****Includes Ministry of Health, Local Health Districts, statutory health corporations, affiliated health services and Ambulance Service of NSW.

*****Prior to 1 September 2022, this category of Schedule 1 entity included – among others – voluntary out-of-home care service providers that were registered with the OCG. Those services are now captured as 'Agencies providing specialised substitute residential care'

*****Specialised substitute residential care was introduced into the *Children's Guardian Act* 1 September 2022



Increase in notifications from the education sector

Notifications from the early education and care sector were higher than the previous year by 31% (211 to 276). There was a 74% increase in notifications from the non-government school sector (from 102 to 177 notifications); while notifications from the Department of Education were up over 30% from the previous year (from 228 to 360).

Leaving aside the notifications outside of our jurisdiction, the notable increases were from the Department of Education in the categories of:

- sexual offences (79% higher)
- neglect (70% increase)
- sexual misconduct (40% higher) and
- assault (18.5% higher).

Notification rates from the early education and care sector are the subject of active consideration. Over the next 12 months, we will be developing well targeted guidance to this sector in relation to their obligations under the reportable conduct scheme.

We also recognise that the requirement under the legislation for there to be alleged sexual misconduct, or an allegation which 'may' involve sexual misconduct, before a matter must be reported to our office, requires review.

In particular, what needs to be considered is whether the safety of children would be enhanced if a report to our office should be made following an allegation of inappropriate personal or intimate behaviour relating to a child. In terms of what is inappropriate behaviour of this type, this would need to be assessed against the standards of the particular profession.

Notable reporting rates in other sectors

Notifications from the Department of Communities and Justice were higher by 20%. There were 37% more notifications of assault (from 141 to 193), 23% more notifications involving allegations of a sexual nature (from 39 to 48) and 55% more notifications of ill-treatment (from 18 to 28). There was also a 59% reduction in notifications that were not in jurisdiction (from 22 to 9).

Notifications from non-government designated agencies were 20% higher (from 517 to 623) than the previous year, with 63% more ill-treatment allegations, 23.5% more assault allegations, and 13% more allegations involving sexual offences (from 55 to 62).

In the case of both government and non-government out-of-home care, the return to full-time in-school education may have impacted the rates of reporting due to increased opportunities for disclosure. In this regard, school personnel are among the top recipients of disclosures of abuse by children in out-of-home care.

Notifications from public authorities increased by 25% (from 56 to 70), with the most notable increase being in allegations of assault from 31 to 40.

Religious bodies notified at a higher rate than the previous year, 56% (from 47 to 85). The bulk of notifications from religious bodies (82%, 70 of 85) were sexual in nature. We have increased our engagement with this sector, with awareness and capability-building as the focal point.

While we continue our work in educating and building capability in underreporting sectors, more than 3 years into the administration of the Scheme under the *Children's Guardian Act 2019*, we have increased our scrutiny over whether entities had a reasonable excuse for matters reported outside the legislative timeframes. Over the reporting period, we increased our inquiries relating to this issue by 57%.

Reportable allegation types

Consistent with the trend last financial year:

- of all notifications within jurisdiction, the majority involved either allegations of assault (38%) or allegations of a sexual nature (32%)
- the majority (62%) of assault allegations were notified by designated out-of-home care agencies, as were the majority of neglect allegations (69%)
- the majority of allegations of a sexual nature (53%) were notified by education services

- ill-treatment allegations were notified most by non-government out-of-home care agencies (45%), followed by Department of Education (15%) and early education and care services (12%).

Every category of reportable conduct saw an increase in notifications over the year, with the biggest increase (in raw terms) in the category of assault (+180 notifications) and categories involving conduct that is sexual in nature (sexual misconduct and sexual offences, at +164).

Table 7: Number of notifications received by primary allegation type

Primary allegation	2020–21*	2021–22*	2022–23
Assault	584	506	686
Behaviour that causes significant emotional or psychological harm	32	19	55
Ill treatment	147	140	205
Neglect	238	214	231
Offence under section 43B or 316A of the Crimes Act**	6	6	12
Reportable conviction	2	1	3
Sexual misconduct	181	135	208
Sexual offence	323	288	379
Not in jurisdiction	396	224	275
Total	1,909	1,533	2,054

* Figures for 2020–21 and 2021–22 have been updated from last year's Annual Report.

** Failure to reduce or remove risk of child becoming victim of child abuse or concealing child abuse crimes.

Employees the subject of reportable allegations

Male and female employees were the subject of reportable allegations in roughly even numbers, although female employees were notified at higher rates than males for allegations of neglect (55% higher), ill-treatment (49%) and assault (16%). Males were the subject of allegations of a sexual nature 4 times the rate of females (464 compared with 118, noting that 12 notifications of a sexual nature involved employees whose gender has not been recorded).

Just over half of the notifications (56%) in which employment status is known involved allegations against employees who were casual, agency staff, contractors or volunteers (including authorised carers), which is a slight increase on last year (53%).

Like last year, the vast majority (91%) of notifications relate to alleged conduct occurring in or connected to the employee's workplace.



Alleged victims

In 2022–23, 28% of notifications arose from direct disclosures and reports by the alleged victim to the relevant entity, and:

- 27% were brought to the relevant entity’s attention by an external body, including police and Department of Communities and Justice
- 21% arose from complaints made by the alleged victim’s family, carer or advocate
- 17% were the result of an employee report (including employees self-reporting).

Notifications received over the reporting period involved 2,573 alleged victims (a 26% increase on last year), noting that a number of notifications involved more than one alleged victim.

Approximately a third (695) of the alleged victims were reported to be Aboriginal or Torres Strait Islander children. The majority of these were notified by out-of-home care agencies, with 491 involving allegations of assault (44%) and 163 of neglect (26%).

544 (about a fifth) of the alleged victims were reported to have disability. Of those, 44% (240) were the alleged victims in notifications of assault.

In 2% (57) of matters, the gender of the alleged victim was unknown at the time of reporting. Many of these are matters involving offences relating to child abuse material, in which the victim’s gender may not be identified.

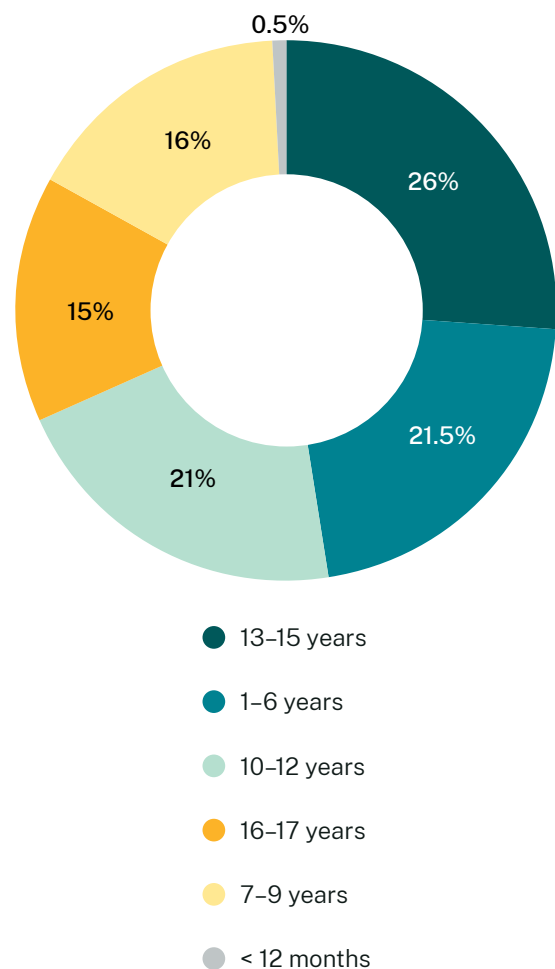
Of the 2,516 alleged victims where the gender is known, 3 alleged victims identify as non-binary and, of the remaining alleged victims, 50% (1,255) are female and 50% (1,258) male. Females were almost twice as likely than males to be notified as the alleged victim in allegations of a sexual nature. Males were notified as alleged victims of assault in 30% more matters than females.

Alleged victims of different age groups were represented in notifications as follows:

- 16 and 17 years: 15% of notifications, 47% of these involving allegations of a sexual nature
- 13 to 15 years: 26% of notifications, most involving allegations of a sexual nature (43%) and assault (33%)

- 10 to 12 years: 21% of notifications, comprising allegations of assault (40%), sexual in nature (25%), neglect (16%) and ill-treatment (13%)
- 7 to 9 years: 16% of notifications, the majority involving allegations of assault (39%) and neglect (22.5%)
- 1 to 6 years: 21.5% of notifications, primarily involving allegations of assault (44%), followed by neglect (23%)
- younger than 12 months: 0.5% of notifications, involving allegations of assault, neglect and ill treatment.

Figure 7: Percentage of notifications by age of alleged victim



CASE STUDY



Using our Reportable Conduct ‘inquiry and scrutiny’ powers to improve the circumstances of children in out-of-home care

An out-of-home care service provider (the entity) notified us of the alleged assault of an infant by one of its carers. The infant and her 4 siblings had originally been placed under Parental Responsibility of the Minister after sustaining multiple serious and unexplained injuries in the care of their parents. The children had been placed in an emergency placement in a household that already supported 5 children. At the time of notification, the child had sustained further unexplained injuries while in that placement and the entity had placed the child and her siblings with kinship carers.

We made preliminary inquiries of the entity, having identified concerns about the safety of the child and her siblings; the provisional carer assessment process; the authorisation of the carer for the emergency placement; the suitability of the accommodation; and the adequacy of the entity’s monitoring of the placement. We requested that the entity review the child’s circumstances since she

entered care and requested advice about the children’s placement; provisions in place for placement support and monitoring of their safety; the outcome of the current carers’ carer assessment; and the decision to provisionally authorise carers who did not hold Working with Children Check clearances.

The entity undertook an independent review of the casework practice, focusing on decision-making and carer assessments since the child entered care, and the case work to support the placement and ensure the safety and care of the child and her siblings. The review identified concerns about the adequacy of the provisional carer assessments and home visits; the absence of appropriate consultation; and a lack of partnerships with other involved agencies. The independent review made recommendations to address all identified issues, and we were satisfied with the entity’s response.



Time taken to investigate

Under the *Children's Guardian Act 2019*, we are required to report on the number of investigations or determinations in relation to reportable allegations or reportable convictions that have not been completed by a relevant entity or the Children's Guardian within 6 months after the commencement of the investigation or determination.

Finalised matters

Of the 2,408 entity investigations that were finalised over 2022–23, 54% (1,293) took more than 6 months to investigate, while the average investigation completion time for matters notified under the *Children's Guardian Act* and finalised over the reporting period was over 1 year (440 days). Of those, 29% had been deferred or suspended for a period of time. The average period of deferral for these matters was 196 days.

A deferral or suspension is the primary reason a reportable conduct investigation will take much longer than 6 months. Reportable conduct investigations are typically deferred or suspended when a third-party investigation is underway – for example by police – or when the matter is the subject of criminal proceedings. There are other legitimate reasons for suspending an investigation, including health concerns for the alleged victim or the employee about whom the allegation was made.

Other factors can also impact the investigation time. Of matters closed during the reporting period which took more than 6 months to investigate, the following factors were most typically present (as a percentage of matters recorded): complexity (19%), resourcing (13%), difficulty or delay obtaining third party information (8%), victim or employee wellbeing (4%), difficulty locating witnesses (2%), and inexperience (2%).

However, a portion of these matters are considered to be unreasonably delayed. With additional resourcing for administering the Reportable Conduct Scheme, we are focused on increasing our scrutiny over delayed investigations, improving the timeliness of our assessments and working with entities to improve the efficiency of their investigative practice.

Active matters

At 30 June 2023, we had 1,617 open notification cases with entity investigation reports pending. 61% (991) of these cases have been active for more than 6 months. Most of these matters have been the subject of a deferral or suspension of investigation decision. About 35% of all reportable allegations notified over the reporting period were also reported to police.

CASE STUDY



Using powers to compel, provide guidance and share information to prevent further harm to children

We received a notification about an early childhood educator engaging in alleged ill-treatment of several 2-year-old children. The centre described the CCTV footage of the incident as depicting the educator guiding children by their arms and by placing her hand on the back of a child's head, lifting children by one of their arms and pushing children down into their seats. The centre also indicated that 2 children had fallen over, and that all the children involved in the incident were unharmed.

We used our powers to require the centre to provide us with a copy of the CCTV footage. The footage showed the educator using excessive physical force on multiple children, including by causing 2 children to fall on the ground and hit their heads.

We advised the centre that it would be appropriate to provide the footage to NSW Police immediately and ensured that the footage was provided to NSW Police. Meanwhile, we referred the information to the Working with Children Check directorate within the Office of the Children's Guardian, as we were aware that the educator was working at a second childcare centre. As a result of the action we took, an interim bar was placed on the educator's Working with Children Check pending the outcome of a risk assessment, and police commenced an investigation, which resulted in them charging the educator with assault.

Complaints about responses to reportable allegations

Under the *Children's Guardian Act 2019*, any person can make a complaint about the way relevant entities respond to reportable allegations. We received 47 complaints over the reporting period, most of which were from employees or alleged victims, or people acting on their behalf.

Consistent with previous years, complaints tend to concern allegations relating to:

- a failure to notify a reportable allegation
- inadequacy in the risk assessment or the risk management action taken, or related communication with involved parties
- the length of time for an investigation
- a failure to provide procedural fairness.

We also receive complaints from general members of the public, which often come through our enquiries line. Members of the public often raise concerns about people who are working with children. These may be referred to other areas within the Office of the Children's Guardian in order for us to provide an integrated response to all relevant issues.



CASE STUDY



Ensuring procedural fairness for employees

We received a complaint that a reportable conduct investigation lacked procedural fairness and that the finding was unreasonable. Our review of the investigation identified that, as well as failing to afford the employee procedural fairness, the entity had not clarified a significant piece of evidence with the alleged victim.

In response, we provided feedback to the entity about these flaws in its handling of the matter, and requested the entity review its finding. We also advised our Working with Children Check (WWCC) directorate that we had concerns about the finding, given that it had triggered a risk assessment of the employee's suitability to hold a WWCC. As a result, the WWCC risk assessment was suspended pending the outcome of the entity's review.

The entity advised us that it had reviewed and was maintaining its finding; however, it did not provide its review. We escalated the matter using our preliminary inquiry powers, with a view to investigating the entity's handling of the matter. The entity's next response was constructive. In particular, the entity noted that it could not locate evidence of a review having been conducted and addressed this issue internally. In addition, the entity engaged an independent external investigator to review the finding, subsequently overturned the sustained finding and apologised to the employee for the impact the unfair process had on him. In consultation with our office, the entity also amended certain policies and procedures which we had found to be deficient.

We informed the WWCC directorate of the revised finding, and the employee remains cleared to work with children.

Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

In March of 2023, we provided an issues paper to The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, which canvassed a number of systemic issues, including how reportable conduct schemes across the country can better respond to people with disability. Our issues paper highlighted the need for the collection of good quality data by all schemes across the country, using a consistent definition of disability, to enable reporting and comparative analysis. Given the particular relevance of 'ill-treatment' to children with a disability, we noted the value of this category of conduct being included in the definition of reportable conduct in all schemes across the country. We also stressed the importance of best practice guidance for

organisations within schemes, that addresses issues relevant to allegations about children with disability. Our commentary on these issues was reflected by the Commission in recommendation 11.17. We discuss other systemic issues identified in our submission on page 69.

In June, the Children's Guardian and staff from the reportable conduct directorate met with leaders of reportable conduct schemes from across the country, to discuss common challenges. This meeting was the first step towards establishing an inter-jurisdictional community of practice for reportable conduct schemes, which we hope will identify and drive initiatives focused on effectively preventing and responding to allegations of violence, abuse, neglect and exploitation of children and young people, including those with disability. We look forward to progressing this important work.

Advice and education

We fulfil our function of providing education and advice through:

- our enquiries line, which this year received 1,560 calls, mostly from relevant entities seeking advice on whether an allegation requires notification or how to progress an initial response to a child protection allegation
- case-by-case tailored advice as reportable conduct investigations are underway
- our eLearning series: in the last financial year, 2,741 new individuals have accessed our eLearning course, Responding to Reportable Allegations, completing a total of 10,848 modules. 98% of the survey respondents stated that they would recommend the course to others. Since launching the first module of the course in November 2020, 28,495 modules have been completed.

Exemptions

Under the *Children's Guardian Act*, we are required to provide details of any exemptions from notification given to a class or kind of conduct of employees of a relevant entity. The Office of the Children's Guardian has not granted any exemptions in 2022–23. This is because we did not have any class or kind agreements in place in the 2022–23 financial year.

We are in the process of consulting with entities in relation to prescribing procedures and criteria for exempting matters under class or kind agreements, as required by section 30 of the Act.

Evaluation of responses

The *Children's Guardian Act 2019* requires us to report an evaluation of the response of relevant entities to the recommendations of the Children's Guardian.

In 2022–23, we had two investigations on foot, and both are ongoing. As neither has reached recommendation stage, we do not have any responses to evaluate.



Out-of-home care and adoption

The Office of the Children’s Guardian regulates and monitors statutory out-of-home care and adoption services in NSW.

Our 2 main functions are to accredit agencies and monitor standards of care.

We assess organisations seeking accreditation for the first time and assess those seeking to renew their accreditation. We also monitor agencies to ensure they meet their responsibilities throughout their period of accreditation.

New service providers

Seven new statutory out-of-home care providers were accredited in the last year – 3 of these are Aboriginal agencies.

There are now 21 Aboriginal out-of-home care agencies accredited; of these, 20 are accredited to provide foster care and 3 are accredited to provide residential care, with a number accredited for both purposes.

Designated and adoption agencies are accredited once they have demonstrated they meet the requirements in the NSW Child Safe Standards for Permanent Care. Designated agencies have responsibilities under the *Children’s Guardian Act 2019* and the *Children and Young Persons (Care and Protection) Act 1998* and regulation. Adoption agencies must also comply with the *Adoption Act 2000* and regulation.

Agencies applying for accreditation may be granted provisional accreditation or full accreditation. Provisional accreditation is granted where an agency has not provided statutory out-of-home care or adoption services in the 12 months prior to making an application for accreditation. Most agencies with provisional accreditation are agencies that are providing services for the first time. When a new provider first commences providing services, the agency must notify the Children’s Guardian and assessors visit the agency every 4 months over the course of the agency’s accreditation period to monitor practice and compliance with accreditation criteria.

Once an agency has provided statutory out-of-home care or adoption services for 12 months, they may apply for full accreditation.

Designated agencies and adoption service providers are required to meet the standards throughout the period of their accreditation. A Notice of Conditions of Accreditation is issued to each accredited agency. It sets out the services the agency can provide and any other requirements the agency must meet.

We can shorten or cancel an agency’s accreditation if it fails to comply with any of the conditions or fails to meet the standards over time. Information about agencies’ accreditation periods and conditions of accreditation are published on our website.

This year, we have continued onsite monitoring and, in some circumstances, have included a hybrid approach of both onsite and remote assessments.

CASE STUDY



Encouraging Aboriginal Community Controlled Organisations

Given the significant over-representation of Aboriginal children in statutory out-of-home care, we encourage and prioritise applications from Aboriginal Community Controlled Organisations. While we encourage and support these organisations to achieve accreditation, the process is robust to ensure agencies fully understand their responsibilities.

This approach has supported an increase in the number of accredited Aboriginal Community Controlled Organisations from 15 in 2020 to 21 at the end of the 2023 financial year.

In 2022-23 we received enquiries from 6 Aboriginal organisations that were seeking provisional accreditation to provide statutory out-of-home care services. We spoke with each of these agencies to understand the types of work these organisations currently do, and the out-of-home care services they wanted to provide. We provided each agency with information about accreditation

requirements and encouraged them to contact the Department of Communities and Justice to discuss potential funding arrangements.

This year, we met with a number of Aboriginal organisations that are proceeding with applications for accreditation. We discussed the accreditation processes in detail and the information that must be provided with an accreditation assessment. New agencies providing services for the first time provide policies and procedures setting out how they will provide services that meet the NSW Child Safe Standards for Permanent Care. We provided the applicant agencies with feedback on their policies and procedures and gave guidance about areas that required further information.

When these new agencies begin providing services for the first time, they must notify us, and we will visit these agencies every 3 months to review and provide feedback on their practice.



Designated agencies

On 30 June 2023, there were 85 designated agencies accredited to provide statutory out-of-home care in NSW. They include non-government providers and the Department of Communities and Justice.

The Children’s Guardian deferred a decision on 4 applications for accreditation during 2022–23. During a period of deferral, the agency remains accredited to provide statutory out-of-home care. Agencies are required to prepare an action plan and address any issues before they can have their accreditation renewed. We visit these agencies regularly to monitor progress towards complying with the standards and any concerns about individual children and young people are referred to the Department of Communities and Justice.

On 30 June 2023:

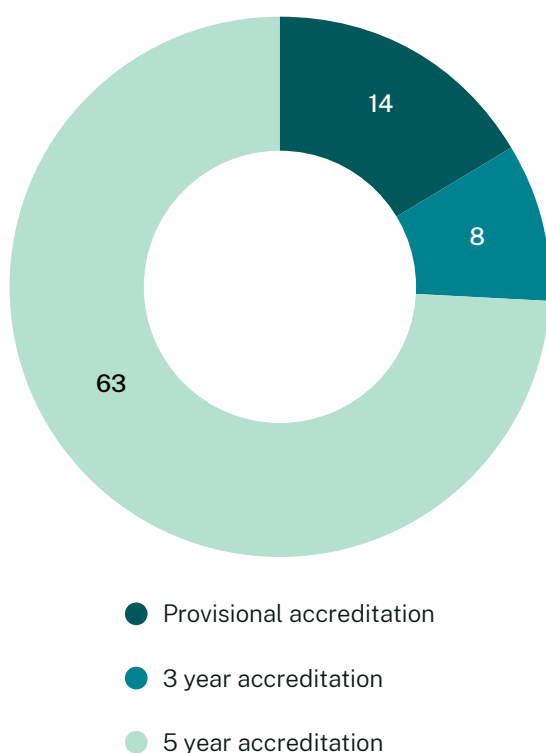
- 63 agencies had full accreditation for 5 years
- 8 agencies had full accreditation for 3 years
- 14 agencies had provisional accreditation for 3 years.

Adoption

If a designated agency seeks to provide adoption services, it is required to comply with legislative requirements and to demonstrate it meets specific additional adoption standards. When an agency is accredited, it can process the adoption of children and young people.

On 30 June 2023, there were 6 non-government designated agencies that are also accredited to provide domestic adoption services in NSW. 5 of these agencies hold full accreditation and one has provisional accreditation. This agency is participating in a direct evidence program towards full accreditation. The Department of Communities and Justice also provides domestic and inter-country adoption services. These services are due for continued monitoring in 2023–24.

Figure 8: Designated agencies in NSW



CASE STUDY



Domestic adoption direct evidence program

Open adoption of children by their carers is one option to provide permanency and belonging for a child who cannot safely return to the care of their parents or family. Once adopted, a child is no longer in statutory out-of-home care and becomes a legal member of their adoptive family, providing them with lifelong permanency. Open adoption in NSW requires that adoptive parents support children to maintain connections with their birth families and cultures.

In 2017 a designated agency contacted the Accreditation and Monitoring team to discuss adding adoption to its out-of-home care accreditation. At that time, the casework and court proceedings for the agency's adoption matters were being managed by the Department of Communities and Justice. The agency wanted to be able to offer these services directly to children in its out-of-home care program.

The agency submitted draft policies and procedures to the Office of the Children's Guardian setting out how it intended to

provide domestic adoption services. Our office assessed the policies and procedures as meeting the Standards and legislation, and the agency was granted provisional accreditation as an adoption service provider in 2019.

The agency commenced a program of direct evidence, where Office of the Children's Guardian assessors conducted regular visits to the agency over a 4-year period. Assessors reviewed and supported the agency's developing domestic adoption practice as it conducted adoption planning and casework for a number of children in stable, long-term out-of-home care placements. At the conclusion of the program of direct evidence, the agency had already successfully managed a number of adoption matters through to final orders by the Supreme Court.

The agency was granted full accreditation as a domestic adoption provider in April 2023 and will be subject to ongoing monitoring by our office.



Monitoring and accreditation of out-of-home care agencies

Each year, the Office of the Children's Guardian visits designated agencies to monitor their compliance with the Standards. These visits inform our decisions whether to accredit an agency and to monitor their compliance with the Standards and provide feedback on areas for improvement.

Visits include discussions with key staff and a review of documentation about individual children to check the agency has systems to promote the safety and wellbeing of children and young people. We assess compliance with child protection requirements, suitability of placements and care environments.

We conducted assessments of 58 agencies this year of which 12 were Department of Communities and Justice out-of-home care programs. In all, we conducted 81 assessments of direct evidence this year.

These assessments involved agencies that were new providers, were working on practice improvements, and agencies applying to renew accreditation. Our assessors may spend several days or weeks monitoring an agency and some agencies are visited several times over a 12-month period to monitor practice improvements.

NSW Department of Communities and Justice

Each of the 16 Department of Communities and Justice districts are accredited as individual designated agencies and we undertake regular monitoring of each district's compliance with the standards. The focus and timing of our monitoring activities depends on where each district is in its accreditation cycle.

In 2022–23, we undertook assessment and monitoring activities in each of the 16 districts, for different purposes.

- We monitored practice against standard 3 (child protection and child safety) in each of the 16 districts, following changes to the Department of Communities and Justice policies and procedures to support practice against this standard.
- We undertook monitoring of 4 districts, which are part-way through their accreditation cycles. The purpose of this monitoring was to ensure the districts continue to comply with the standards.
- We undertook accreditation renewal assessments for 5 Department of Communities and Justice districts, which involved an assessment of compliance with the standards. Of these:
 - 4 districts had their accreditation renewed, and
 - a decision on one district was deferred to allow for further assessment of compliance.

All accredited agencies are issued a Notice of Conditions of Accreditation which sets out any conditions that apply specifically to the agency. In 2022–23, the Children's Guardian imposed a condition on the accreditation of Department of Communities and Justice districts regarding the way they arrange special out-of-home care for children and young people. Special out-of-home care is care that can be arranged by the Secretary for the Department of Communities and Justice where a child has complex disability or medical needs. Special out-of-home care placements are often provided by disability service providers. The condition on the accreditation of Department of Communities and Justice districts required submission of policies and procedures for the arrangement of special out-of-home care and periodic progress reports on the implementation of its special out-of-home care action plan. This condition was imposed to ensure that there is greater consistency across the Department about how special out-of-home care placements are arranged, supervised, and supported. We will be monitoring compliance with this condition over the next 12 months.

Consultation on the code of practice

In the previous financial year, we sought sector feedback on a proposal to bring the statutory out-of-home care and adoption sector into the child safe scheme, by replacing the current NSW Child Safe Standards for Permanent Care with the Child Safe Standards. There was broad support for the proposal and agencies noted clear benefits in having one set of child safe standards across all child-related sectors in NSW. The sector also noted that sector-specific practice requirements would need to be reflected in the new accreditation requirements to ensure the needs of children and young people in statutory out-of-home care and adoption arrangements are met.

In September 2022, we sought feedback from the sector on the content for a code of practice. The code of practice will set out how the Child Safe Standards are to be implemented in the statutory out-of-home care and adoption sector. When the code commences, it will become the new accreditation criteria and will replace the NSW Child Safe Standards for Permanent Care.

We are working with Parliamentary Counsel's Office to prepare a consultation draft code of practice which will be circulated to the sector for final comment later in 2023. We will also publish guidance material for the sector to assist the transition to the new accreditation criteria and anticipate that the code of practice will commence in the coming year.

Monitoring to renewal framework

Following consultation with designated agencies and adoption service providers, we trialled a new way of regulating the sector.

The new monitoring to renewal framework has a greater focus on agencies' quality assurance and continuous improvement systems. Under this framework we will have more regular contact with agencies during the accreditation cycle, but our engagements will be shorter. We are trialling the new approach with a sample of agencies and will incorporate their feedback when we finalise the framework later in 2023.

Resources to support cultural care planning

All designated agencies are required to undertake culturally appropriate care planning, aimed at keeping Aboriginal children and young people better connected to family, kin, culture and Country.

In 2021 we consulted designated agencies as part of a review of the accreditation functions of the Children's Guardian. Submissions received overwhelmingly supported an increased focus on cultural care. Non-Aboriginal designated agencies articulated a need for guidance material to assist developing their practice in this area.

In response, we engaged Curijo, an Aboriginal company that provides consultancy, capability and cultural training, to work with us to design and develop that guidance material. Curijo has specific skills and experience working with non-Aboriginal community controlled organisations in developing cultural care plans and supporting culturally strong case work.

In February 2023, in conjunction with Curijo, we held an online focus group with non-Aboriginal providers to better understand the challenges they experience in developing cultural care plans. Feedback from the forum, together with an online forum with staff from Aboriginal service providers, informed further development of the guidance material.



The cultural care guidance material will not be mandatory, but rather will support agencies that are seeking assistance to better meet the needs of Aboriginal children and young people in their care. The resources are close to completion and will be available to the sector in the coming year.

Information reported to the Office of the Children’s Guardian

Agencies are required to notify us when a child or young person dies while in statutory out-of-home care and when a child under 12 years old is placed into residential care. Agencies are also required to notify reportable allegations to the Office of the Children’s Guardian under the Reportable Conduct Scheme. Once we receive a notification, we carefully assess the information to determine whether the agency is meeting its legislative requirements. We may decide to make additional inquiries and use the information to inform our monitoring decisions.

During 2022–23, we received notifications relating to 40 children under 12 years whose placements commenced in residential care, with 19 designated agencies.

We received notification of 5 deaths of a child or young person in statutory out-of-home care during 2022–23. 4 child deaths related to natural causes or illness and one will be the subject of a coronial inquest.

Table 8: Information reported relating to children in statutory out-of-home care in 2022–23

Information reported	NGOs	Dept Communities and Justice	Total
Allegations of sexual misconduct, sexual offences and assault by staff, carers and volunteers	286	182	468
Death of a child or young person in statutory out-of-home care	4	1	5
Number of children under 12 years old placed in residential care	40	–	40

Carers Register

The Carers Register records information about carer applications, authorised carers and their household members. It assists designated agencies in the selection and probity assessments of carers.

The Carers Register requires designated agencies to share information about carers, prospective carers and their household members. It is designed so that only carers who have met minimum mandatory suitability and probity checks are able to provide out-of-home care to children and young people.

At June 30 2023, 17,121 carers were authorised to provide out-of-home care to children and young people in NSW. Of these, 2,447 identified as Aboriginal and Torres Strait Islander.

There were 53 designated agencies accredited to provide statutory out-of-home care that are required to use the Carers Register to authorise carers and their household members.

The main activities we undertake to operate the Carers Register are:

- monitoring and compliance to check agencies are meeting Carers Register requirements
- checking data integrity and undertaking remediation so the information recorded is current and accurate.

CASE STUDY



Carers Register sparks WWCC bar

A designated agency contacted us for advice regarding a relative or kinship applicant carer. The application process for all prospective carers includes probity checks that determine suitability, including a Community Service Check, Working with Children Check and a National Police Check. An 'other agency check' is also conducted if the carer applicant has been an applicant, authorised carer or household member with another designated agency. Any returned relevant records from probity checks require the agency to conduct a risk assessment to determine if the individual is an appropriate person to be authorised as a carer.

The agency had received a community service check outcome for the applicant which recorded a historical charge of a sexual offence against a minor in the United States. The applicant had a cleared Working with Children Check and no disclosable outcomes in his current National Police Check.

After further discussion with the applicant regarding this matter, the agency refused the individual's carer application. However, the agency was concerned that the international charge indicated the individual posed an ongoing risk in relation to the safety, welfare or wellbeing of children.

After discussing the matter with the agency, we decided further review was required in respect of the applicant's Working with Children Check. Information was requested and exchanged under Chapter 16A, and reviewed to determine if risk assessment or an automatic bar was applicable. In this case the applicant individual was barred from engaging in child related employment because of his conviction in the USA.

This collaborative approach to sharing information demonstrates how we seek to work effectively with others to keep children safe.



Capability building

We support designated agencies to meet the requirements of the Carers Register by providing training and online, phone, and email support. We also produce business intelligence reports to support designated agencies' data management and quality assurance practices in this area.

In 2022–23 we ran 4 training sessions providing information and skills to new and existing Carers Register users.

CASE STUDY



Supporting agencies using the Carers Register

The Carers Register is a database that designated agencies must use in determining the suitability of carers and their household members. Training is vital in keeping the register accurate and up to date, as part of seeking to ensure children and young people are safe to be placed with appropriately assessed individuals.

The training also educates agencies in the role of the Carers Register as both a licensing tool and a resource for exchanging information between agencies. A carer cannot be authorised without agencies checking the register for associations with other designated agencies. An association could be as an applicant or authorised carer, or a household member. Where an association exists, the agency is compelled by legislation to contact the relevant agency to exchange information.

We provide Carers Register training to newly accredited agencies or existing agencies that request refresher training. In the last

year, 4 training sessions were presented to 2 new agencies, and 2 refresher sessions to existing agencies.

The training comprises 2 parts: a PowerPoint presentation that covers the history and aims of the Carers Register, followed by a live demonstration. During this demonstration the user is shown how to enter an application, add household members, undertake checking requirements and finalise the application. Other changes to the records are demonstrated such as address updates, entering Working with Children Check details and changes to the carer's household composition.

The ongoing commitment to Carers Register training by both the Office of the Children's Guardian and agencies not only builds an understanding of the purpose and function of the Carers Register, it also enhances the register's data integrity, ensuring that it remains a useful tool.

Monitoring agencies

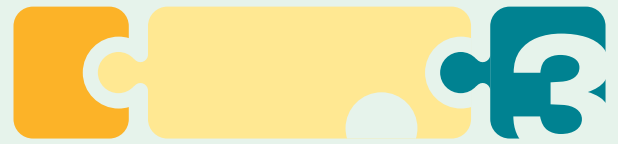
This year, 27 non-government organisations participated in a Carers Register Review. 21 were held onsite, 3 were completed remotely, and 3 were a combination of both onsite and remote.

Data integrity

We audit Carers Register data to check its reliability and integrity and to create reports, some of which require action from designated agencies. We monitor the integrity of the data to ensure it is a reliable source of information. It also informs compliance actions.

Supporting foster carers

In recognition of the foster carer shortage in NSW, and the need to better support foster carers in their critical roles, we have supported a proposal to establish a joint carer reference group which would bring together senior leaders in the out-of-home care sector, carer representative organisations and peak bodies, to develop a strategy for working collaboratively to address systemic issues impacting carer recruitment and retention. We hope the group will focus on the barriers to attracting carers in the current economic climate, sector practices regarding carer training and support, the impact of the reportable conduct scheme on carer retention, and access to regular high quality respite for children and young people in home-based care. We also expect the group to explore strategies for increasing the number of carers.



Overview of carer households

In 2022–23, there were 17,121 authorised carers. This total number of authorisations has decreased slightly compared to last year's figure and likely reflects ongoing impacts from COVID-19 on agencies.

Figure 9: Carers Register key statistics 2022–23

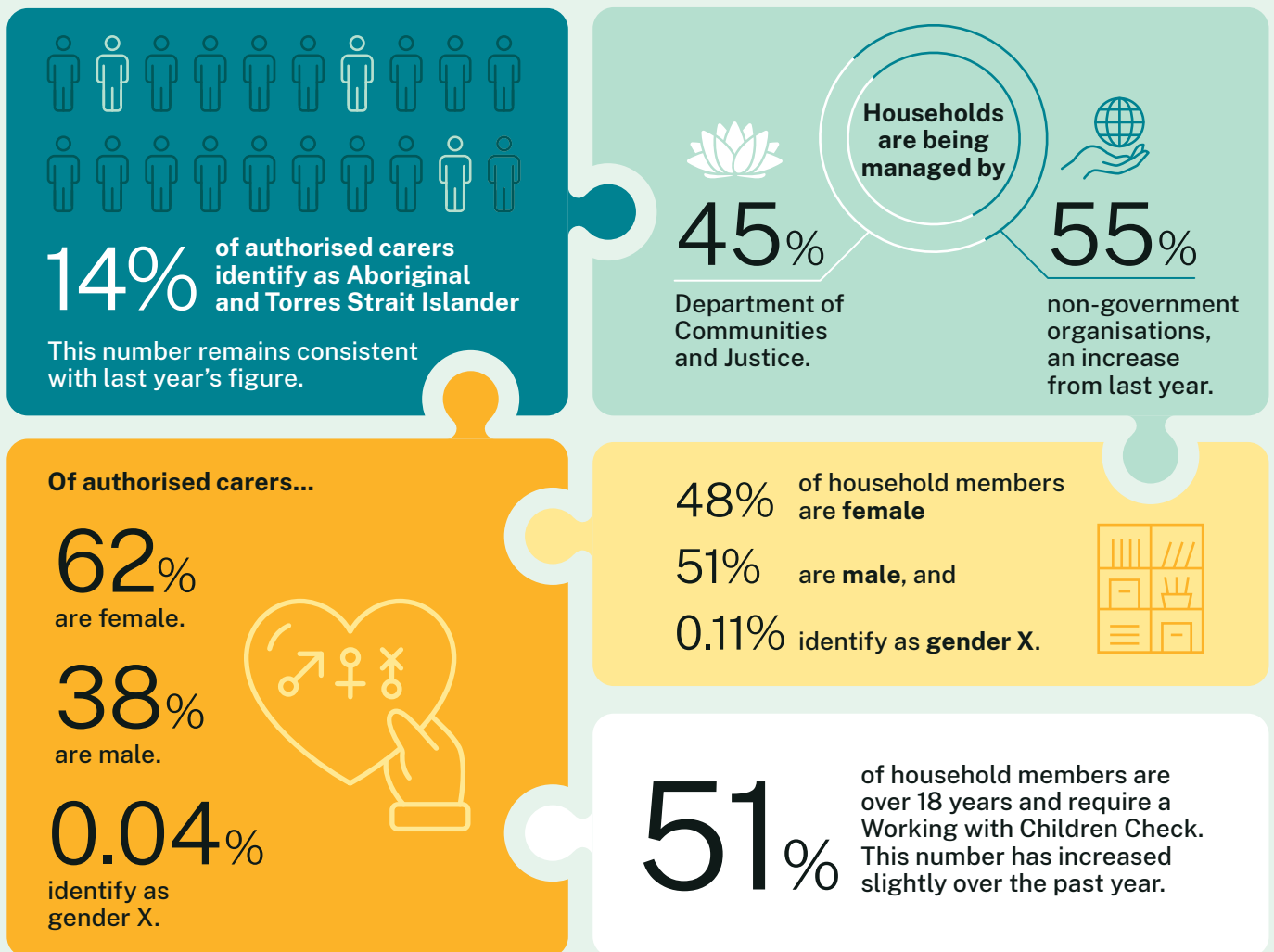


Figure 10: Total number of Authorised Carers and household members in the Carers Register

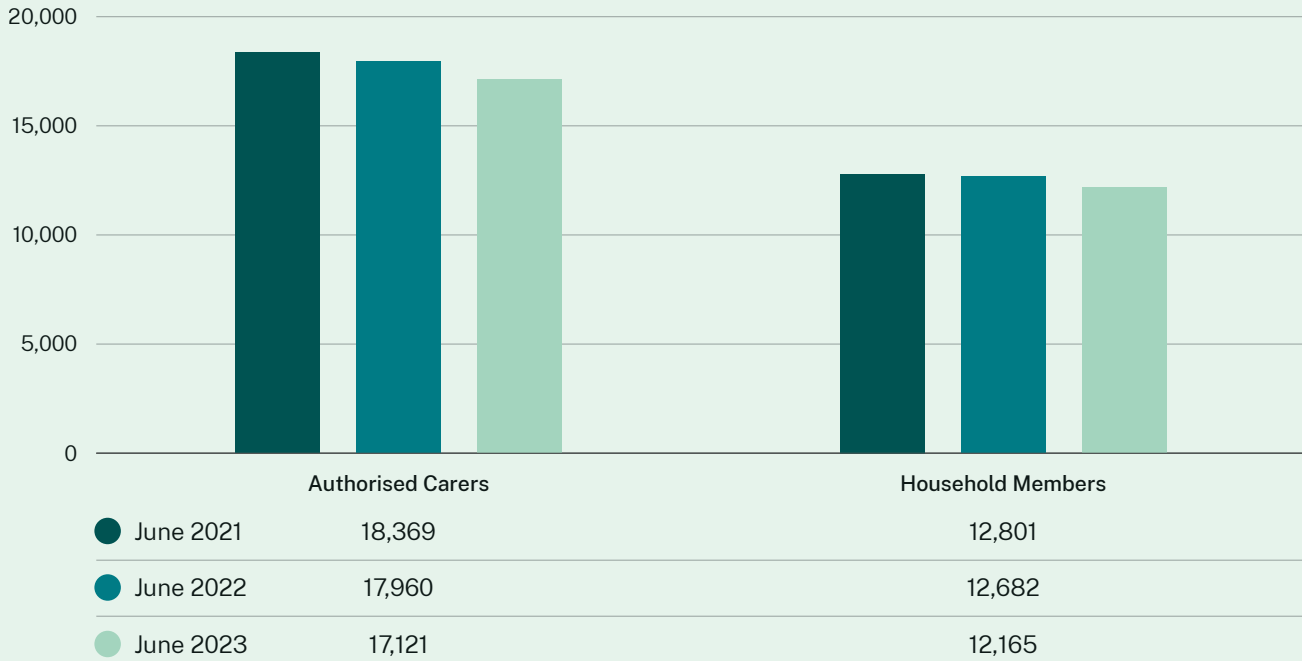
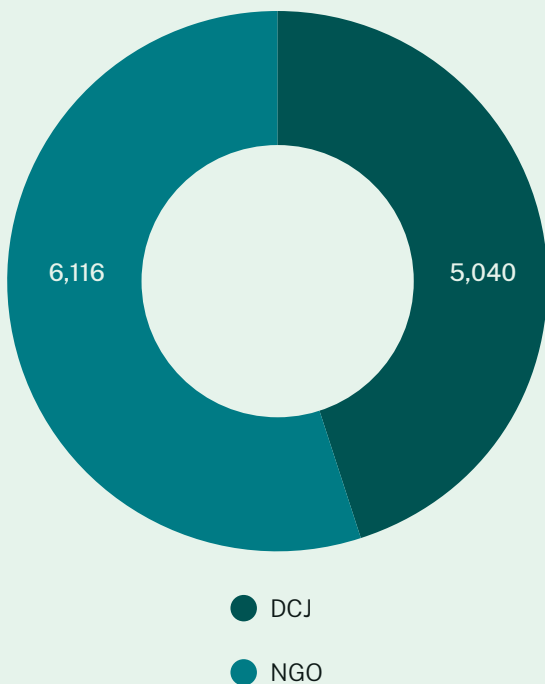


Figure 11: Number of households managed by DCJ/NGO



Carer application outcomes

During 2022-23, 512 carer applications have either been refused or withdrawn due to concerns. This number has increased 14% compared with last year.



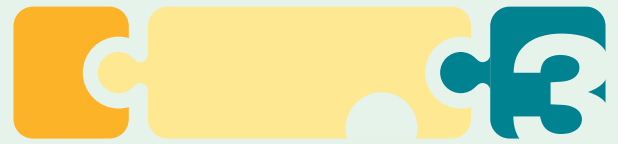


Table 9: Carer applications refused and withdrawn

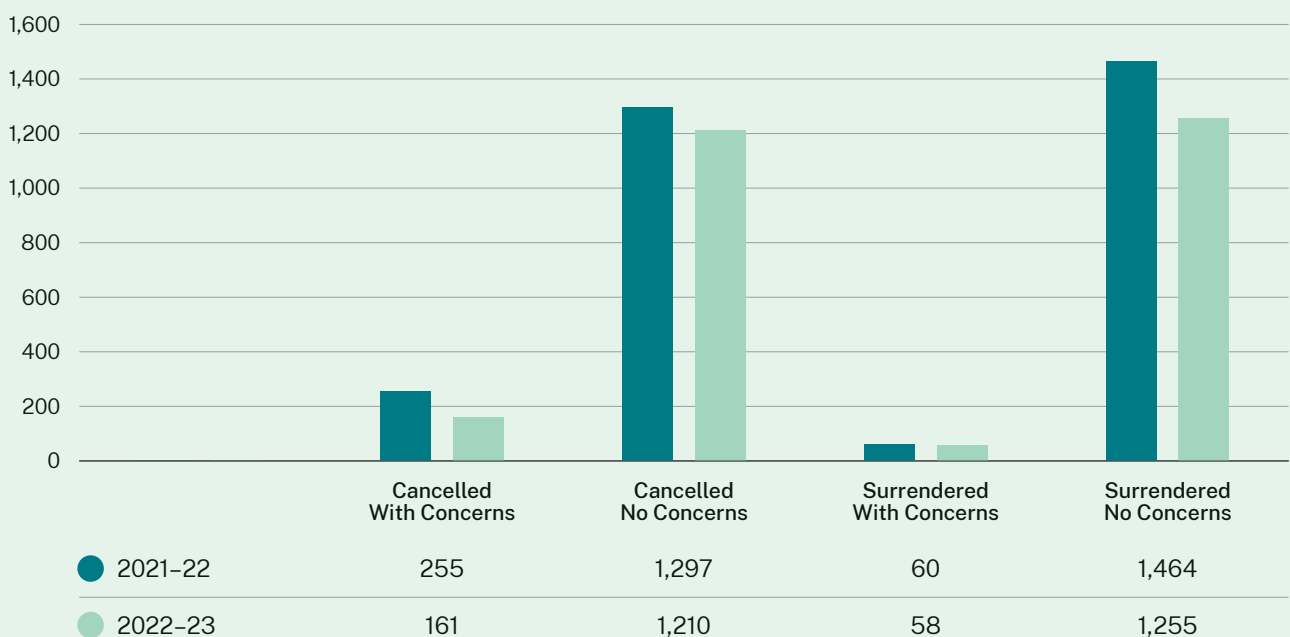
Status	2020-21	2021-22	2022-23
Refused	293	263	343
Withdrawn no concerns	1,528	1,484	1,843
Withdrawn with concerns	217	188	169

Carer authorisation outcomes

161 carer authorisations were cancelled with concerns this year and 58 were surrendered with concerns. This number has decreased 30% since last year.

Carers that are cancelled or surrendered with concerns are flagged on the Carers Register. If these individuals were to apply to another agency to become a carer, the concerns would be shared with the new agency.

Figure 12: Cancelled/surrendered authorised carers – 2021-22 to 2022-23



Working with Children Check bars and interim bars of carers and household members

537 carers or their household members have had their Working with Children Check clearance cancelled since the Carers Register began in 2015, and are no longer legally allowed to care for children and young people in out-of-home care.

Table 10: Working with Children Check bars (cumulative) relating to carers and household members

	At 30 June 2021	At 30 June 2022	At 30 June 2023
WWCC bars			
Authorised carers	176	193	210
Household members	99	105	131
Interim bars			
Authorised carers	90	98	120
Household members	72	78	91

NOTES:

Individuals may have a carer and a household member role – the total is a distinct individual count.

Carer authorisations are automatically cancelled if the person no longer has a Working with Children Check or is subject to a bar or interim bar.

Carer authorisations are automatically suspended if a household member no longer has a Working with Children Check or is subject to a bar or interim bar.

The relevant designated agency must, within 48 hours of becoming aware of a cancellation or suspension, ensure that children or young people in out-of-home care are no longer placed in a household where a person with a Working with Children Check bar or interim bar resides.

Residential Care Workers Register

The Royal Commission into Institutional Responses to Child Sexual Abuse recommended that each jurisdiction in Australia should establish a register of residential care workers to improve the safety of children and young people in out-of-home care. The *Children’s Guardian Act 2019* provided the legislative power to the Office of the Children’s Guardian to establish a register of residential care workers.

The NSW Residential Care Workers Register (Residential Register) and the Children’s Guardian Regulation 2022 commenced on 18 July 2022. The provisions within the Regulation support the register’s operation.

The Residential Register provides a mechanism for designated agencies to exchange information about an individual, where this is relevant to the safety, welfare or wellbeing of children and young people. This supports agencies to decide if an individual is suitable to provide care to children and young people in residential care and helps prevent unsuitable workers moving from one agency to another.

The Residential Register is a secure, restricted-access database which holds information about those individuals who have reached the final stages of the recruitment process and those who have been engaged as residential care workers. This assists designated agencies in the selection and probity assessments of residential care workers. It is designed so that only applicants who have met minimum mandatory suitability and probity checks are able to provide out-of-home care to children and young people in a residential setting.

The main activities we undertake to operate the Residential Register are:

- monitoring and compliance to check agencies are meeting Residential Register requirements
- checking data integrity and undertaking data remediation, so the information recorded is current and accurate.



CASE STUDY



The Residential Care Worker Register in practice

A worker provided care to children and young people in residential care. The agency (Agency 1) recorded this worker on the Residential Care Workers Register and listed him as 'engaged'.

An allegation was made against the worker, that he acted in a manner which placed a child at risk. Agency 1 investigated the matter, but the worker refused to engage in the process and instead resigned from his role.

Agency 1 held concerns that the worker may pose a risk in relation to the safety, welfare or wellbeing of children. The agency ended the worker's role on the Residential Register and indicated that they held information that was relevant to the safety, welfare or wellbeing of children. The agency documented the details in their own files, so as to be ready to exchange critical information with another provider if contacted.

A few months later, the worker applied for a position at a second agency. This was recorded on the Residential Register. As part of the mandatory probity checking, Agency 2 could see that the worker had a previous association with Agency 1, and that they held relevant information to exchange. Agency 2 requested the information from Agency 1 and received advice on the previous allegation.

Agency 2 raised the allegation with the worker to discuss and found that their response was not satisfactory. As a result, the agency decided that the worker was not suitable to be engaged to work with children in residential care as he posed a risk that could not be managed by the agency.

Prior to the Residential Register, these allegations would not have been captured or shared and the worker could easily have been employed by agency after agency.

Capability building

In 2022–23, we have had a strong focus on capacity building with designated agencies, to support them to meet the requirements of the new register. This has included training, and distributing guidance materials, as well as online, phone and email support.

The Residential Register provides agencies with the ability to produce business intelligence reports to support their own internal data management and quality assurance.

Monitoring agencies

The Residential Register was introduced in 2022–23 as a practice requirement for all designated agencies. We have supported agencies to understand their obligations and monitor practice across the sector and ensure we have provided adequate guidance.

Agencies have been required to develop policies and procedures to support their practice in meeting the Residential Register requirements. 18 of the 69 agencies registered have finalised their documentation, with the remainder to be completed throughout the coming year.

Data integrity

Residential Register data is audited to check its reliability and integrity so it can be used to create reports that provide details of the residential care workforce. If a report highlights errors or other practices that do not align with obligations relating to the Register, we monitor that the designated agency takes action to remediate the information. We have focused on ensuring only those workers defined by legislation are entered into the system, and that mandatory probity checking within the scope of legislative requirements.

Overview of residential care workforce

At the time of the commencement of the Register, any individual already working as a residential care worker was required to be recorded on the new register. This is referred to as ‘back capture’. Any new applicants since the commencement of the Register are to be recorded and all of the relevant data must be provided before they provide care to children and young people.

As of 30 June 2023, 8,080 individuals were recorded on the register as being engaged as a residential care worker, with 1,274 of these working for more than one agency at the same time. There were a total of 10,460 engagements across the sector. Of the total number of individuals, 610 identified as Aboriginal and Torres Strait Islander.

There were 69 designated agencies registered to use the Residential Register. These agencies are required to record workers and authorise those providing residential care to children and young people. One agency is government (Department of Communities and Justice) and the remaining 68 are non-government organisations (NGOs).

A focus at the commencement of the register was to add all current engagements into the new system. 45% of current engagements are back capture entries (those engagements which had already commenced prior to the Register starting).



Figure 13: Residential Register key statistics

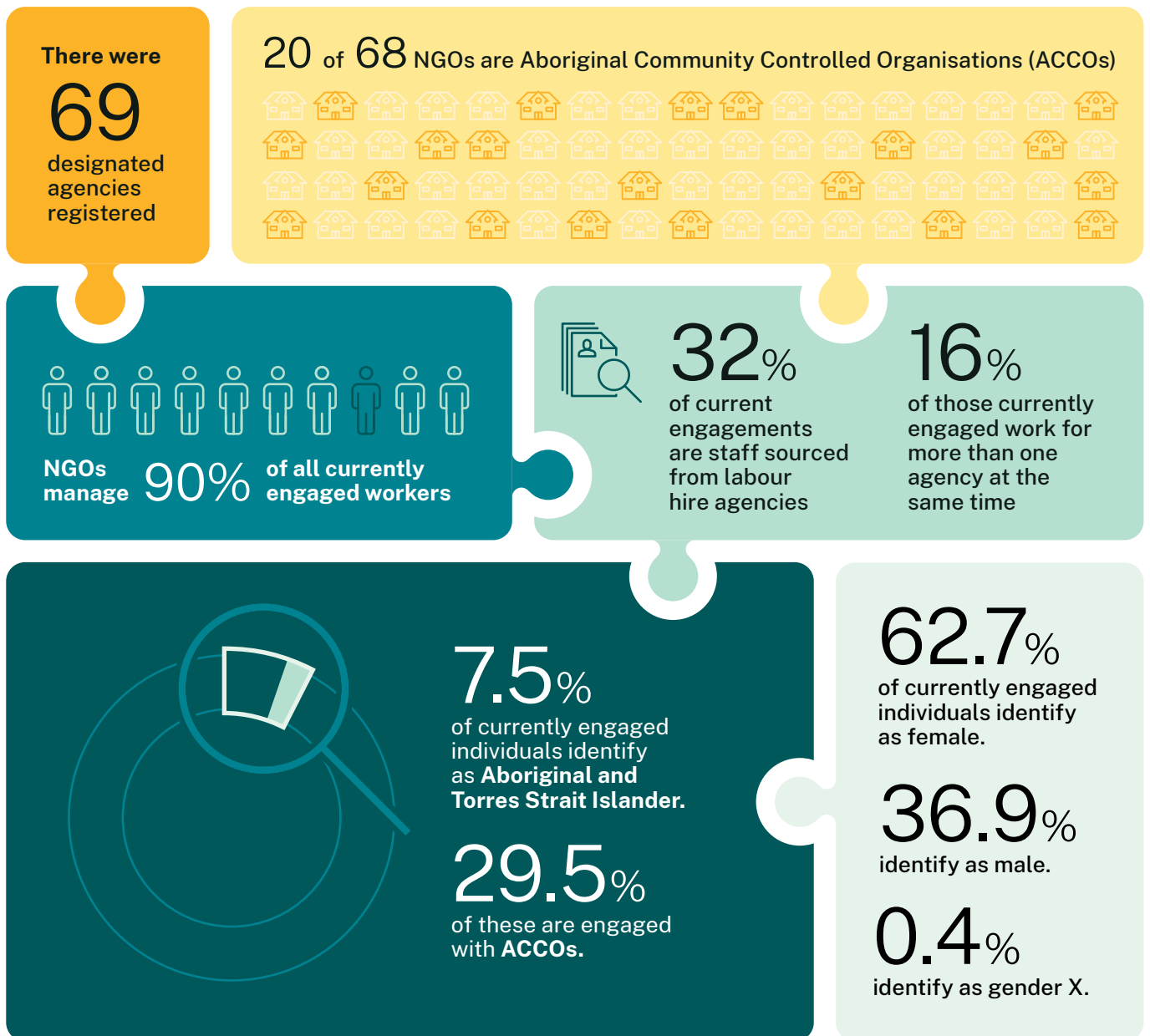


Figure 14: Labour Hire – % workers engaged via labour hire

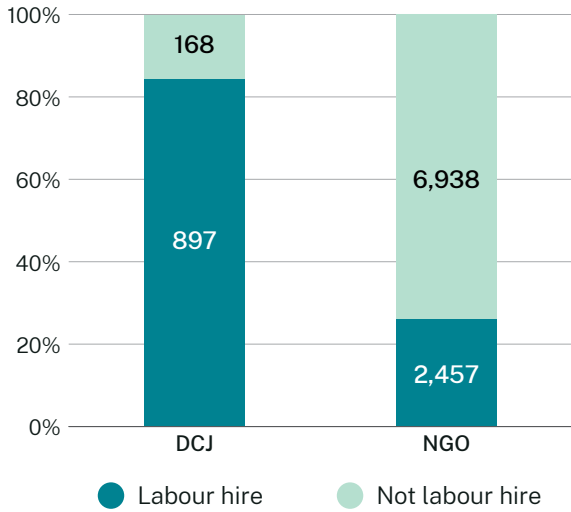
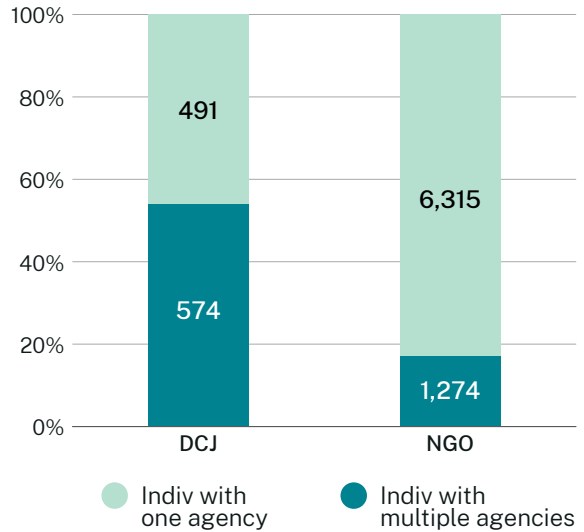


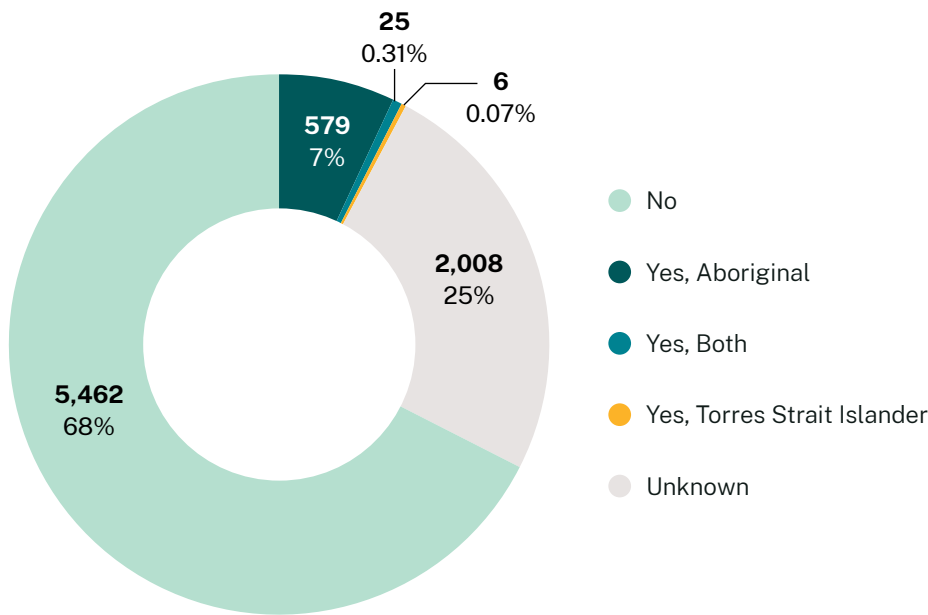
Figure 15: Multi-associations – % individuals currently with multiple agencies



NOTE:

DCJ multi-associations are a subset of NGO's multi-associations

Figure 16: Indigenous Identity – Currently engaged individuals





Reportable allegations

As of 30 June 2023, there were 130 reportable allegations recorded on the Residential Register which were either under investigation or had been finalised during 2022–23. Of these:

- 59 were being investigated
- 57 had been finalised and a decision made that there was no information indicating a risk posed by the individual
- 14 which had been finalised and the agency had determined that it had information relevant to the safety, welfare or wellbeing of children which should be shared with others in the future.

Reportable conduct flags

The *Children’s Guardian Act* requires that we report the number of people on the Residential Care Workers Register who have a Reportable Conduct flag noted if the investigation or determination has not been completed by a relevant entity or the Children’s Guardian within 6 months after the commencement of the investigation or determination. In 2022–23 there were 12 people on the residential care workers register who have a reportable conduct flag noted under these circumstances.

New residential care worker engagements

During 2022–23, there were 6,837 new worker engagements. The majority of these were in the NGO sector.

Table 11: New worker engagements

New worker engagements	6,837
Department of Communities and Justice	543
Non-government organisation	6,294

Table 12: Ended residential care worker engagements

Ended engagements	2,352
Contact agency – yes	85
Contact agency – no	2,267

During 2022–23, 2,352 worker engagements ended. The reasons for this include that an individual resigned, moved to a new position within the agency or had their employment terminated.

Where an agency has an end date for a worker’s engagement, they are required to make a decision about whether they hold information about the individual that is relevant to the safety, welfare or wellbeing of children. This is added to the Residential Register as either a ‘yes’ or ‘no’ outcome. If an agency holds relevant information, the register facilitates information exchange between relevant agencies, including future employers.

The exchange of relevant information does not preclude an individual from obtaining future employment. Instead, it assists agencies in identifying and managing any risk to children and young people by supporting the recruitment of suitable workers. This process maintains the safety of children as the paramount consideration in the delivery of out-of-home care services.

Specialised substitute residential care

On 1 September 2022, the new specialised substitute residential care scheme replaced the voluntary out-of-home care scheme. The most important changes were the introduction of the new Code of Practice and a different registration process for new providers. The Code of Practice applies to all entities providing substitute residential care and is a set of principle-based minimum standards that replaces the previous voluntary out-of-home care statutory procedures.

Since the scheme's introduction, any new specialised substitute residential care providers are required to complete the online Child Safe Self-Assessment. Following completion of the self-assessment, we arrange the provider's access to the Specialised Substitute Residential Care Register, where they record all nights of specialised substitute residential care that they provide.

In 2021–22, there were 130 agencies registered under the previous voluntary out-of-home care scheme. In 2022–23, the number of providers registered under the new scheme increased to 272, representing a 109% increase.

Having these agencies registered with the Office of the Children's Guardian allows us to better target capability building activities and to actively monitor providers if there are concerns.

In 2022–23, we focused on the transition to the new scheme, onboarding new providers and building their capability. To support new providers and existing providers with the transition, we held 7 webinars and training sessions with a total of 350 attendees, and developed a range of new resources for providers. As part of our onboarding process, we met with newly registered agencies to introduce our team and discuss any risks that the agency should be aware of.

In consultation with the sector, we are also developing an implementation handbook. It is due to be released in the coming year.

Children using specialised substitute residential care

In 2022–23, 803 children and young people accessed specialised substitute residential care, compared to 649 who accessed voluntary out-of-home care in 2021–22. Of the 803 children and young people, 752 (94%) have a disability.

Care episodes

The Office of the Children's Guardian monitors care placements as part of seeking to gain a picture of the use of specialised substitute residential care services and to identify high risk placements.

One care placement relates to each time a child receives specialised substitute residential care – this could involve a short placement of only a few nights, or a longer-term respite stay. During 2022–23, there were 4,566 placements recorded by specialised substitute residential care providers.

Supervision by a designated agency is required when a child or young person's overnight care runs for a cumulative period of 90 days in a year (even when more than one registered agency has provided that care), to ensure the correct supports and planning are in place for the child.

In 2022–23, there was a 50% increase in the number of placements of children and young people that required supervision by a designated agency (from 50 in 2021–22 to 75 in 2022–23). This increase may be due to these providers now having a better understanding of their obligation to register placements.

We also monitor the number of children and young people who are in care for over 180 days as, from this point, the child requires a case plan. In 2022–23, there was a 14% decrease in the number of children who required a case plan (from 49 in 2021–22 to 42 in 2022–23).



Employing children

The Office of the Children’s Guardian monitors organisations that employ children who are under 15 and who work in the entertainment industry, as well as those children under 16 working in the modelling industry. There is a Code of Practice that sets out the minimum required standards when employing children in these industries.

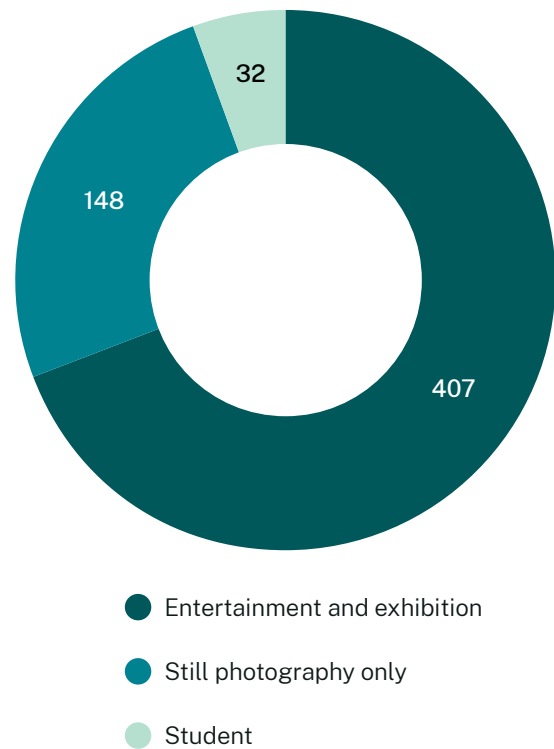
We issue employers with an authority to employ children in the categories of entertainment and exhibition, still photography and student productions. Through this process, employers register their intention to employ children in NSW with the Office of the Children’s Guardian. This regulatory requirement allows us to monitor the conditions for young employees working in these industries, and educate employers regarding their legal obligations.

In 2022–23, we received 587 applications for an authority to employ children within NSW, an increase of 6% compared to the previous year. Short term authority applications (of 1 week duration) increased by 7% (from 388 in 2021–22 to 414 in 2022–23).

Table 13: Authority to employ children

Authority length	Number of applications
1 week	414
3 months	26
6 months	11
12 months	136
Total	587

Figure 17: Employer authority applications by type, 2022–23



Productions

Employers holding an authority need to notify the Office of the Children’s Guardian of the details of children’s work in each production, the risks associated with the work and their risk management strategies.

In 2022–23, we received 1,144 notifications of productions employing children, an increase of 8% from the previous year.

There were significant increases in notifications for children employed in:

- voice overs (111% increase from 26 in 2021–22 to 55 in 2022–23)
- live performance (100% increase from 32 in 2021–22 to 64 in 2022–23)
- television series (53% increase from 60 in 2021–22 to 92 in 2022–23).

There were some small decreases in notifications for films and advertising.

CASE STUDY



Impact of our monitoring work

An employer wanted a child actor to take part in a scene which would normally be performed by a highly skilled stunt person. As part of its monitoring function, the Children's Employment team at the Office of the Children's Guardian asked the employer to provide an explanation of why they required a child to perform the role and how it would be deemed safe for the child.

At first, the employer insisted on using a child to create a more natural look for the scene. We initiated negotiations with the employer to ensure that all safety measures

would be considered and that the task would be suitable for the child's age, skill and physical development.

During the negotiations, the employer used an adult stunt performer for rehearsals. It was during these rehearsals that the employer realised that the scene would work effectively if it was performed by an adult stunt person. As a result, the stunt was performed by an adult and the child actor was not put at risk.

Compliance

We undertake a range of compliance activities to check employers are adhering to the requirements for employing children and young people.

Compliance checks are targeted at high-risk organisations or productions, based on information received during our monitoring process and data collected through previous compliance activity. Investigations are usually conducted to respond to allegations or complaints received, or if a significant breach is identified through a compliance check.

We completed 94 desk-based compliance checks by contacting employers after work was completed. Most compliance checks were conducted by phone and email after the child was employed.

Of the employers checked, 29 were compliant and 65 were in breach of the legislation. Breaches included not providing the OCG with appropriate notification of risks; not maintaining appropriate records; and insufficient supervision of children. Depending on the seriousness of the offence, employers received an informal caution or a formal warning letter with an invitation to participate in an education session.

As a result of one compliance check, we issued a fine to a performer representative who sent a child to work for an unauthorised employer.



Investigations

Some instances of alleged non-compliance with the *Children's Guardian Act 2019* in relation to children's employment matters involve a high risk to children. These include allegations of unauthorised employment of a child or a failure to notify the Children's Guardian of the intention to employ a child.

Allegations determined as posing a high risk to children or where an employer has engaged in repeated non-compliance are investigated. Investigations determine whether an employer has breached the legislation. The process involves gathering evidence by reviewing records, speaking to witnesses and allowing the person of interest a chance to respond to the allegations.

In 2022–23, we completed 10 investigations into alleged breaches of the *Children's Guardian Act 2019* in relation to children's employment matters. Of these:

- 8 were allegations pertaining to the unauthorised employment of children:
 - 3 were not in jurisdiction
 - 3 were found to be compliant following investigation
 - 2 were issued with a formal warning.
- 2 were allegations pertaining to employers failing to adhere to obligations to notify their intentions to employ children. In both matters the employers were fined \$550 each.

Through these matters, we worked closely with the employers to understand the circumstances surrounding the breaches. We workshopped strategies to improve future compliance and create safer environments for children being employed in the entertainment, exhibition, and modelling industries.

Capability building

In addition to our compliance program, we met with 42 organisations as part of our ongoing educational campaign to raise awareness about the requirements for employing children and to build understanding around why the safeguards exist.

This included visiting 20 productions that were deemed high risk, and 22 employer and stakeholder meetings to encourage upfront compliance with the children's employment legislation (an increase of 23% on the previous year).

NDIS Worker Check

The National Disability Insurance Scheme (NDIS) Worker Check commenced in NSW on 1 February 2021. It is part of the national quality and safeguarding arrangements for NDIS participants and includes a nationally consistent approach to worker screening for NDIS workers. In this regard, all states and territories are operating an equivalent worker screening check that is recognised by the Commonwealth Government.

In NSW, the scheme operates under the *National Disability Insurance Scheme (Worker Checks) Act 2018* and the *National Disability Insurance Scheme (Worker Checks) Regulation 2020*. The Regulation prescribes the disqualifying and presumptively disqualifying offences, and the corresponding laws to support national information sharing.

CASE STUDY



Assessing who is suitable to work with people with disability

An NDISWC applicant had previously served a lengthy prison term for illegally importing large quantities of chemicals used in the manufacture of illicit drugs. The applicant was released from prison more than 5 years ago.

The NDISWC conducted a risk assessment of the applicant. The NDISWC found that NDIS work was unlikely to present opportunities for criminal behaviour of the same type. However, the applicant's behaviour indicated a willingness to engage in serious and sophisticated crimes, even at the risk of significant penalty, for personal financial gain. This risk was deemed to be relevant to NDIS work. The NDISWC determined that the applicant posed a risk of harm to the health, safety, and wellbeing of NDIS participants.

The applicant was issued an NDIS Worker Check exclusion. This prohibits the person for 5 years from engaging in NDIS work that requires a clearance.

The applicant made an appeal to the NSW Civil and Administrative Tribunal (NCAT). NCAT conducted a fresh assessment. NCAT agreed with the NDISWC's assessment of the applicant. NCAT found that while the applicant had led a pro-social lifestyle since his release from prison, this had been for a relatively short period, especially considering the seriousness of his past behaviour. As a result, NCAT upheld the NDISWC's decision to exclude the applicant from NDIS work.



The Commonwealth Government sets the requirements for NDIS worker screening. It is a requirement placed upon providers regarding:

- which workers need a clearance to work, and
- what type of worker screening they must undertake.

The Commonwealth Government also administers the NDIS Worker Screening Database which allows employers to verify an application and keeps a national list of clearances and exclusions.

Table 14: Key statistics NDIS Worker Check, 2020–23

	2020–21	2021–22	2022–23
Applications received	37,567	93,267	93,752
Decisions made:			
Clearances	32,984	91,219	89,339
Exclusions	2	70	211

Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

In our March 2023 paper to the Royal Commission (also discussed on page 43), we highlighted a number of opportunities for reform in connection with NDIS worker screening. While the national framework and process for screening NDIS workers is relatively new, we should always be looking at opportunities to improve. One issue canvassed in this paper was the need for a national legislative framework which ensures that critical risk related information can be automatically provided to NDIS worker screening bodies across state and territory borders under continuous monitoring arrangements. In addition, we argued the need to enhance capacity to share risk related information more generally. In this paper, we also champion a collaborative approach to assisting providers to comply with relevant regulatory requirements. We identified that there would be value in establishing a community of practice comprising the NDIS Commission, the NDIA, NDIS providers, peak bodies, and relevant experts, to share knowledge, resources and expertise across the sector, and as a mechanism to work on critical service quality

and safety issues for the benefit of the sector and broader community.

The Royal Commission published its final report in late September 2023. The report includes three recommendations specific to NDIS worker screening (Recommendations 10.31, 10.32, and 10.33). These include:

- improving continuous monitoring of Commonwealth offences for NDIS workers
- improving the operational arrangements for information sharing between the NDIS Quality and Safeguards Commission and worker screening units
- reviewing information sharing arrangements to improve the flow of information relevant to risk of harm across Australia

We look forward to working with the Commonwealth, state, and territory governments to discuss and progress the recommendations, and to contribute to thinking around the establishment of a community of practice in this area.

Child Sex Offender Counsellor Accreditation Scheme

The Child Sex Offender Counsellor Accreditation Scheme was originally established to improve service quality of practitioners providing expert opinion to the courts.

The scheme previously accredited counsellors working with adults who sexually offend against children, and children and young people with harmful sexual behaviours.

A review in 2019 identified that the majority of accredited counsellors worked with the latter cohort and made a number of recommendations to improve and refine the scheme. The scheme was suspended in March 2020 to allow for the development of a new approach with more robust assessment of the clinical competency of counsellors accredited under the scheme.

Over the next year, we will work closely with NSW Health and the Department of Communities and Justice to respond to the recommended improvements, with a view to developing a new sustainable model.

Official Community Visitors Scheme

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

The child-related function of the Official Community Visitors Scheme transferred to the Office of the Children's Guardian's legislation with the implementation of the *Children's Guardian Act 2019*. However, as the Official Visitors Scheme covers both child and non-child related functions, it has stayed as one unit and transferred to the Ageing and Disability Commission.

The Office of the Children's Guardian and the Ageing and Disability Commission developed an agreement under section 146 of the *Children's Guardian Act 2019*, that enables the Ageing and Disability Commission to oversee and support Official Community Visitors Scheme on a day-to-day basis. It also enables information to be exchanged for the purposes of informing monitoring visits and planning accreditation renewal assessments and whenever serious concerns are raised.

The Official Community Visitors Scheme produces a stand-alone Annual Report which includes information on the child-related functions, as allowed under the *Children's Guardian Act 2019*. It will be available on the Ageing and Disability Commission website and our website.

Additional matters

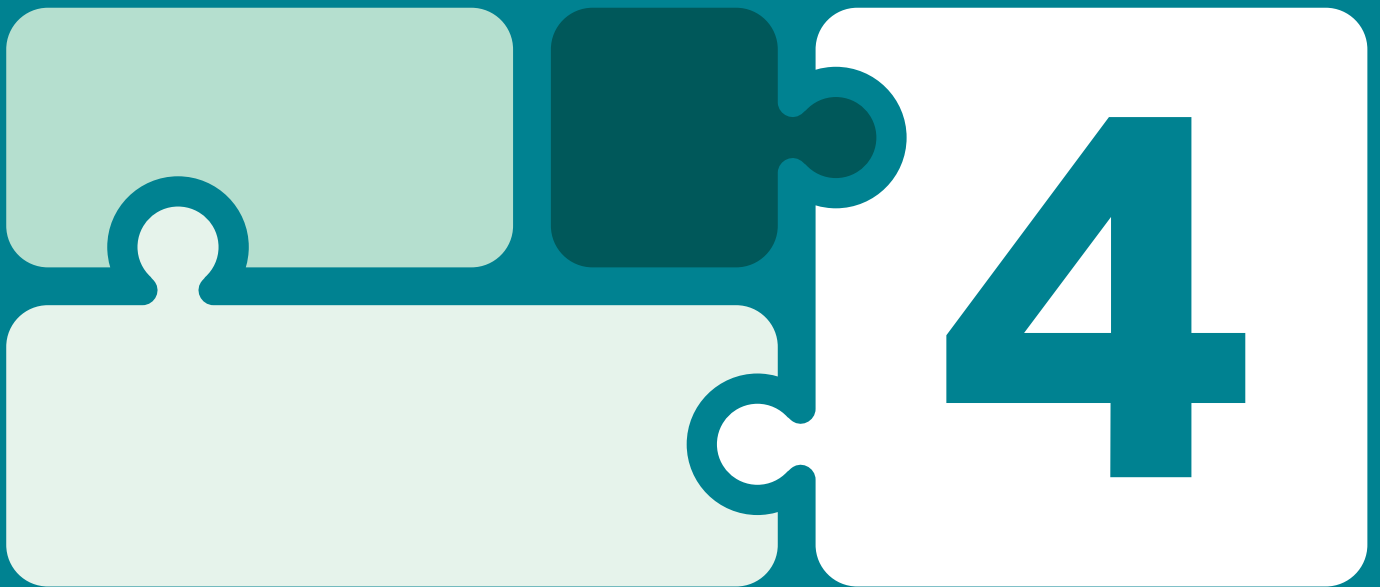
Australian and New Zealand Children's Commissioners and Guardians

The Children's Guardian continues as a member of the Australian and New Zealand Children's Commissioners and Guardians Group (ANZCCG), which comprises national, state and territory children and young people's commissioners, guardians and advocates.

The ANZCCG identifies common issues and works to promote and protect the safety, wellbeing and rights of children and young people across Australia and New Zealand.

Key priorities for the ANZCCG for 2023 are:

- promoting the rights of children and young people
- advocating for the right of children and young people to participate in decisions that impact them
- giving voice to the views of, and encouraging direct consultation with, children and young people on matters that affect them
- sharing the observations and perspectives obtained through members' varied functions and roles to make sure these drive improvements for children and young people across Australia and New Zealand
- making sure the best interests of children and young people are considered in the development of policies and programs
- encouraging systemic improvement informed by evidence-based research in areas that impact on the rights, interests and wellbeing of children and young people, including but not limited to issues such as child poverty, housing and homelessness, mental health, child protection, and youth justice.



Management and accountability

Summary of our management and accountability structures. Information about our human resources and legislation.

Human resources

At 30 June 2023, the Office of the Children’s Guardian employed 266 people (executive, award employees and seconded in) on either a full-time or part-time basis.

Table 15: Number of employees by employment category by financial year

	30 June 2020	30 June 2021	30 June 2022	30 June 2023
Ongoing	169	181	205	238
Temporary	32	26	11	15
Casual	2	3	3	3
Seconded In				2
Senior Executive	8	9	10	8
TOTAL	211	219	229	266

Table does not include contractors and employees seconded out of the Office of the Children’s Guardian but does include employees on unpaid leave and seconded into the Office of the Children’s Guardian.

Policies and practices

The Office of the Children’s Guardian has comprehensive policies, procedures and other guidance materials which provide a framework for the appropriate management of employees and business risks. Policy changes incorporate any new legislative changes and Public Service Commission requirements, including initiatives to promote flexible working and the Premier’s Priorities such as enhancing diversity in senior leadership.

We continue to review and update all internal policies and procedures against best practice and to incorporate current legislative requirements.

Industrial relations

The Office of the Children’s Guardian conducts quarterly state-wide Joint Consultative Committee meetings with the Public Service Association.

Exceptional movement in wages, salaries and allowances

There were no exceptional movements in wages, salaries or allowances during 2022–23.

Overseas visits

There were no overseas visits during 2022–23.

Number and remuneration of senior executives

The tables below include all executives who were employed at any time during 2022–23 and includes the Children's Guardian and Deputy Children's Guardian, although these are statutory positions.

Numbers and remuneration of senior executives

Table 16: Number of Public Service Senior Executives employed in each band as at 30 June 2023

PSSE Band	2019–20	2020–21	2021–22	2022–23
Band 3		1 female	1 female	1 male*
Band 2	1 female	1 male	1 male	**
Band 1	5 female 2 male	5 female 2 male	5 female 3 male	4 female 3 male

NOTES

* The previous Children's Guardian (female) departed in September 2022. The new Children's Guardian (male) was appointed in January 2023.

** The Deputy Children's Guardian role vacated in January 2023 and has been vacant from February – June 2023.

Table 17: Average remuneration of senior executives in each band

Remuneration level	Average remuneration 2021–22	Range 2022–23	Average remuneration 2022–2023
Band 3*	\$359,754	\$361,301 – \$509,250	\$374,560
Band 2**	\$307,500	\$287,201 – \$361,300	\$313,650
Band 1	\$241,953	\$201,350 – \$287,200	\$243,351

NOTES

* There are no PSSEs employed in the Band 3 level. The Children's Guardian is a statutory appointment and the remuneration disclosed is as per the current incumbent's employment contract.

** There are no PSSEs employed in the Band 2 level. The Deputy Children's Guardian is a statutory appointment and the role was vacant from February 2023.

Table 18: Percentage of total employee-related expenditure relating to senior executives

Year	Percentage
2021–22	8.48
2022–23	6.35

Consultants

Table 19: Consultancies to or over \$50,000

Consultant	Description	Amount	Category
University of Sydney	Review of the safety of children in out-of-home care	\$76,680	Management Services

Table 20: Consultancies under \$50,000

Category	Number of engagements	Amount
Management Services	1	\$17,675

Research and development

In 2022–23 we undertook 2 significant research and development projects.

To evaluate the effectiveness of the implementation of the Child Safe Scheme, we engaged the Australian National University’s Social Research Centre:

- in 2022 to develop an evaluation framework
- in early 2023 to develop an evaluation plan.

A project was also undertaken by Instinct and Reason to research the effectiveness of the different operations and communication practices of the Office of the Children’s Guardian.

Legal change

Statutory review of the *Children’s Guardian Act 2019*

The statutory review of the *Children’s Guardian Act 2019* commenced on 1 March 2022, 2 years after the commencement of the Act, as required by section 183(2) of the *Children’s Guardian Act 2019*.

A discussion paper was published in July 2022, and 44 submissions were received from government agencies, non-government organisations and individuals. Targeted stakeholder consultations were held between August and October 2022.

Mr Mark Tedeschi AM KC was engaged to review Part 4 of the Act, relating to the reportable conduct scheme.

Review of the *Child Protection (Working with Children) Act 2012*

Work is underway on a review of the Working with Children Act with the proposed release of an issues paper late 2023 or early 2024. The issues paper will consider matters of broad public interest relating to the Working with Children Check scheme.

We will consult on specific matters that are identified by stakeholders in response to the issues paper and on other key issues. After the consultation process, we will then provide advice to government on particular areas where there is scope to enhance the operation of the scheme.

Consolidation of the Children's Guardian's functions

Children's Guardian Amendment Act 2022

The *Children's Guardian Amendment Act 2022* was assented to on 1 July 2022, addressing reform in 4 key areas:

- Designated agencies and adoption service providers were brought within the scope of the Child Safe Scheme, and certain child safe organisations were required to comply with codes of practice: these agencies were designated agencies, adoption service providers, and entities providing specialised substitute residential care.
- Concepts of voluntary out-of-home care and registered agencies were removed and replaced with specialised substitute residential care.
- Register provisions were clarified and updated in relation to our carers register, residential care workers register, and specialised substitute residential care register.
- The accreditation framework for designated agencies and adoption service providers was consolidated in the Act.

Amendments relating to administrative and other related requirements pertaining to the register which is kept by the Children's Guardian commenced on 1 September 2022.

Children's Guardian Amendment Regulation 2022

The Children's Guardian Amendment Regulation 2022 transferred and updated certain provisions of the Children and Young Persons (Care and Protection) Regulation 2012, Adoption Regulation 2015, and Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015 to the Children's Guardian Regulation 2022.

It also made regulations consequential upon the passage of the *Children's Guardian Amendment Act 2022*, including regulations to support the revised approach to the regulation of voluntary out-of-home care as specialised substitute residential care. It achieved this by:

- continuing the voluntary out-of-home care register as the specialised substitute residential care register
- establishing a code of practice for specialised substitute residential care providers which sets out mandatory requirements to comply with the Child Safe Standards.

The new regulations commenced on 1 September 2022.

Recent and prospective legislative amendments

Child Protection (Working with Children) Amendment Act 2022

The *Child Protection (Working with Children) Amendment Act 2022* was assented to on 1 July 2022. The Amendment Act implemented key recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse by:

- strengthening the Office of the Children’s Guardian’s ability to access, use and disclose information relevant to assessing whether an applicant or clearance holder poses a risk to the safety of children
- strengthening cross-jurisdictional information sharing
- enabling the Office of the Children’s Guardian to record, maintain and share information relating to negative Working with Children check decisions on the National Reference System (NRS). The National Reference System is a new centralised system operated by the Australian Criminal Intelligence Commission (ACIC). It stores information about people barred from working with children in other states and territories. More detailed information about the NRS is provided at page 20 of this report.

From 1 September 2022, there were additional amendments that authorised the exchange of information with interstate screening agencies. These amendments also required the Office of the Children’s Guardian to record information on the National Reference System database about Working with Children Check refusals, and any changes to decisions resulting in a person being barred or interim barred from working with children.

Animal cruelty provisions in the Working with Children Act

Schedule 2 to the *Stronger Communities Legislation Amendment (Children) Act 2021*, was proclaimed to commence on 1 September 2022. The amendments in Schedule 2:

- prevent people convicted of offences of bestiality or serious animal cruelty from seeking administrative review of a Working with Children Check decision
- allow animal welfare agencies, namely the Royal Society for the Prevention of Cruelty to Animals NSW and the Animal Welfare League NSW, to share information with the Children’s Guardian about certain animal cruelty offences
- specify additional animal cruelty offences as offences that require a risk assessment
- provide that offences of serious animal cruelty disqualify a person from working in child-related work.

Child safe enforcement powers

Part 9A of the *Children’s Guardian Act* was inserted by the *Children’s Guardian Amendment (Child Safe Scheme) Act 2021*. It allows the Office of the Children’s Guardian to take enforcement action to secure compliance with the Child Safe Scheme established under Part 3A of the Act.

The enforcement powers commenced on 1 February 2023. The Office of the Children’s Guardian now has the full complement of regulatory levers to embed the Child Safe Standards through responsive, risk-based regulation and take appropriate enforcement action, where required.



Code of practice for designated agencies and adoption service providers

Work is currently underway on a code of practice for designated agencies and adoption service providers, informed by our review of, and consultation on, the Child Safe Standards for Permanent Care.

We are working with Parliamentary Counsel's Office to prepare a consultation draft code of practice which will be circulated to the sector for final comment later in 2023.

This code of practice, like the Child Safe Standards for Permanent Care, will set the criteria to be met by designated agencies and adoption service providers to obtain and maintain accreditation under the *Children's Guardian Act*.

Remake of the Child Protection (Working with Children) Regulation 2013

The repeal of the Child Protection (Working with Children) Regulation 2013 has been postponed to 1 September 2025.

Government Information (Public Access) Act 2009

Public access to NSW government information

The Office of the Children's Guardian holds a range of documents and information, many of which are publicly available. The production of some documents may require an application under the *Government Information (Public Access) Act 2009*, the *Privacy and Personal Information Protection Act 1998* or the *Health Records and Information Privacy Act 2002*.

Right to information requests

To promote open, accountable, fair and effective government in NSW, members of the public have the right to access government information. This right is restricted only when there is an overriding public interest against disclosing that information.

Formal requests made under the *Government Information (Public Access) Act 2009* for access to documents held by the Office of the Children's Guardian should be accompanied by a \$30.00 application fee and directed to:

Right to Information Officer
Office of the Children's Guardian
Locked Bag 5100
Strawberry Hills NSW 2012
Telephone enquiries: (02) 8219 3600
Email: legal@ocg.nsw.gov.au

Further information can be found on our website:
www.ocg.nsw.gov.au

Children and young people aged younger than 18 years are granted open-access information free of charge.

Statistics about Government Information (Public Access) Act 2009 applications

Under section 7 of the *Government Information (Public Access) Act 2009*, agencies must review their programs for the release of government information to identify the kinds of information that can be made publicly available. This review must be undertaken at least once every 12 months.

We publish information about our functions on our website.

During the 2022–23 reporting year, we updated our Agency Information Guide, which provides a list of information that we proactively release. The updated Agency Information Guide can be found on our website. No documents were identified through this process for publication on the website.

The following series of tables provides data on GIPA applications for the 2022–23 reporting period.

Table 21: Data for clauses 8(b) and 8(c) of the GIPA Regulation 2018

Data type	Number of applications
Total number of access applications received by the OCG (including withdrawn applications but not including invalid applications)	12*
Total number of access applications that the OCG refused, either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 of the GIPA Act (info for which there is a conclusive presumption of overriding public interest against disclosure)	Refused wholly: 1 Refused partly: 3

* The total includes 2 applications received but not yet decided during the reporting year. The total also includes 3 applications that were 'partially invalid', that is, the applications were invalid, under s.43 of the GIPA Act, to the extent that they sought access to the excluded information of the OCG. With regards to one of the 'partially invalid' applications, the remainder of the application was valid because it sought information that was not excluded information. With regards to the other 2 'partially invalid' applications, they are invalid applications that subsequently became valid applications due to the operation of s.46 of the *Child Protection (Working with Children) Act 2012* ('WWC Act') which meant that the applicants were entitled to apply for access under the GIPA Act to any information about a finding referred to in Schedule 1, clause 2 of the WWC Act.

Table 22: GIPA applications by type of applicant and outcome

Type	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	-	-	-	1	-	-	-	-
Members of Parliament	-	-	-	-	-	-	-	-
Private sector business	-	-	-	-	-	-	-	-
Not-for-profit organisations or community groups	-	-	-	-	-	-	-	-
Members of the public (application by legal representative)	-	-	2	1	-	1	-	-
Members of the public (other)	-	1	3	4	2	-	-	1

NOTE: This table refers to decisions made in the reporting year about finalised formal access applications. The number of decisions recorded in this table may be different from the total number of applications received, as more than one decision can be recorded in relation to a single access application.

Table 23: GIPA applications by type of application and outcome

Application type	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refusal to deal with application	Refusal to confirm / deny whether information is held	Application withdrawn
Personal information applications*	-	1	5	3	2	1	-	1
Access applications (other than personal information applications)	-	-	-	3	-	-	-	-
Access applications that are partly personal information applications and partly other	-	-	-	-	-	-	-	-

* A personal information application is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

NOTE: This table refers to decisions made in the reporting year about finalised formal access applications. The number of decisions recorded in this table may be different from the total number of applications received, as more than one decision can be recorded in relation to a single access application.

Table 24: Invalid applications

Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of the Act)	1
Application is for excluded information of the agency (section 43 of the Act)	9
Application contravenes restraint order (section 110 of the Act)	-
Total number of invalid applications received	10
Invalid applications that subsequently became valid applications	2

NOTES:

The total number of invalid access applications includes a single application that is recorded as having 2 different reasons for invalidity – invalid because the application does not comply with formal requirements, and invalid because the application is for excluded information.

GIPA access applications relating to reportable conduct matters under Part 4 of the *Children's Guardian Act 2019* are excluded information, pursuant to Schedule 2, clause 2 of the GIPA Act. According to section 43(2) of the GIPA Act, an application is not a valid access application to the extent that it seeks access to excluded information.

The total number of invalid applications includes 6 access applications that are wholly invalid, and 3 applications that are 'partially invalid', that is the application is invalid, under s.43 of the GIPA Act, to the extent that it sought the 'excluded information' of the OCG.

One of 3 'partially invalid' access applications, in part, *sought* access to excluded information. This application has not been included in the number of 'Invalid applications that subsequently became valid applications' because the remainder of the application was valid (i.e. the part of the application that did not seek excluded information).

The 2 other 'partially invalid' applications are invalid applications that subsequently became valid applications due to the operation of s.46 of the WWC Act, which meant that the applicants were entitled to apply for access under the GIPA Act to any information about a finding referred to in Schedule 1, clause 2 of the WWC Act).

Table 25: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of the GIPA Act

Interest consideration	Number of times consideration used*
Overriding secrecy laws	-
Cabinet information	-
Executive Council information	-
Contempt	-
Legal professional privilege	-
Excluded information	2
Documents affecting law enforcement and public safety	-
Transport safety	-
Adoption	-
Care and protection of children	2
Ministerial code of conduct	-
Aboriginal and environment heritage	-
Information about complaints to Judicial Commission	-
Information about authorised transactions under <i>Electricity Network Assets (Authorised Transactions) Act 2013</i>	-
Information about authorised transactions under <i>Land and Property Information NSW (Authorised Transaction) Act 2016</i>	-

NOTE:

* More than one interest consideration may apply in relation to a single access application.

Table 26: Other public interest considerations against disclosure: matters listed in table to section 14 of the GIPA Act

Public interest consideration	Number of occasions when application not successful
Responsible and effective government	2
Law enforcement and security	-
Individual rights, judicial processes and natural justice	2
Business interests of agencies and other persons	-
Environment, culture, economy and general matters	-
Security provisions	-
Exempt documents under interstate Freedom of Information legislation	-

NOTE: More than one interest consideration may apply in relation to a single access application.

Table 27: Timeliness of GIPA decisions

Time period	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	14
Decided after 35 days (by agreements with applicant)	-
Not decided within time (deemed refusal)	1
Total	15

NOTE: The number of applications decided within the statutory timeframe includes 6 access applications where the OCG decided that the application, in its entirety, is an invalid application under section 43 of the GIPA Act.

Table 28: GIPA applications reviewed under Part 5 of the Act

Type of review	Decision varied	Decision upheld	Total
Internal review	-	-	-
Review by Information Commissioner	-	1	1
Internal review following recommendation under section 93 of Act	-	-	-
Review by the NSW Civil and Administrative Tribunal	-	1	1
Total	-	2	2

NOTE: The table includes the application for review by the NSW Civil and Administrative Tribunal that was awaiting an outcome during the 2021/2022 reporting year.

Table 29: GIPA applications for review under Part 5 of the Act

Type of application	Number of applications for review
Applications by access applicants	2
Applications by person to whom information the subject of access application relates (s. 54 of the Act)	-

Table 30: Applications transferred to other agencies under Division 2 of Part 4 of the Act

Type of transfer	Number of applications transferred
Agency-initiated transfer	0
Applicant-initiated transfer	0

Public interest disclosure

There was one public interest disclosures during the 2022-23 reporting year.

Risk management and insurance activities

The Office of the Children’s Guardian maintains several management disciplines to comply with the NSW Treasury Internal Audit and Risk Management Policy for the General Government Sector (TPP 20–08). The following management disciplines are complementary and constitute the foundation of the department’s resilience.

Fraud control and corruption prevention

The Office of the Children’s Guardian has a Fraud and Corruption Control Policy that is based on Standards Australia AS8001-2008: Fraud and Corruption Control. This policy incorporates the 10 key attributes of fraud control contained in the NSW Auditor-General Better Practice Guide Fraud Control Improvement Kit.

Advice is provided to employees in response to queries concerning conflicts of interest, gifts, benefits and bequests, and secondary employment and private work.

Internal audit

In 2022–23 the Office of the Children’s Guardian continued to review its risk profile. The information contained in our risk register forms the basis for our ongoing Internal Audit Plan. During the reporting period our Audit and Risk Committee received and reviewed reports and management responses on:

- penetration testing of the Working with Children Check system and OCG website
- OCG’s compliance with NSW Cyber Security policies.

The internal audit and risk management attestation statement is on the following page.

Audit and risk committee

The Office of the Children’s Guardian has an independent Audit and Risk Committee.

As part of compliance with the Treasury Policy Paper 20–08 Internal Audit and Risk Management Policy for the General Government Sector, the Committee continued its advisory role in assisting the Children’s Guardian with relevant and timely advice on the office’s governance, risk and control activities and external accountability obligations.

Collectively, the Committee members have the experience, knowledge and qualifications to effectively discharge their responsibilities as outlined in the Committee Charter and Treasury Policy.

5 Audit and Risk Committee meetings were held in 2022–23, with the number of meetings each independent member attended as follows:

Jan McClelland AM (Independent Chair):	5
Wayne Evans (Independent Member):	5
Helen Freeland (Independent Member):	4

Insurance activities

Insurance is provided for all major assets and significant risks through the NSW Government self-insurance scheme (NSW Treasury Management Fund). This includes full workers compensation, motor vehicle, property, public liability and miscellaneous insurance cover.



Cyber security policy attestation

Cyber security Annual Attestation Statement for the 2022–23 Financial Year for the Office of the Children’s Guardian

I, Steve Kinmond OAM, am of the opinion that the cyber security controls in place in the Office of the Children’s Guardian (OCG) have been independently audited for the 2022–23 financial year.

Independent audits of cyber security controls in place during the 2022–23 financial year for OCG’s maturity against the NSW Cyber Security Policy mandatory requirements have been performed and combined with the mandatory requirements provided by our shared services provider, GovConnect. GovConnect currently leverages Department of Customer Service resources for delivery of shared services to agencies. Additionally, an independent audit of the cyber security controls in place for the National Disability Insurance Scheme, worker check system was undertaken and factored into the overall OCG maturity rating.

The audit results demonstrate that technology, governance and service management practices are in place and recommendations from the audits will form the basis for the 2023–24 workplan.

The OCG will continue to review its practices in conjunction with GovConnect departmental governance frameworks and operational feedback to further improve its effectiveness. The OCG will ensure that cyber security governance and controls adequately address cyber security risks and continue to improve alignment with ISMS Framework and policy which is based on the ISO 27001 standard, and independently audited.

The OCG will continue to work with GovConnect in continuing its push to improve operational security, service delivery, and technologies to provide greater assurance to its clients that cyber security risks are being managed in a consistent and effective manner.

Steve Kinmond OAM
Children’s Guardian

13 October 2023

Internal Audit and Risk Management Attestation Statement for the 2022–2023 Financial Year for the Office of the Children’s Guardian

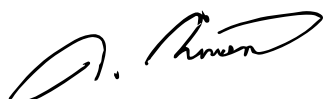
I, Steve Kinmond OAM, am of the opinion that the Office of the Children’s Guardian has internal audit and risk management processes in operation that are compliant with the seven (7) Core Requirements set out in the Internal Audit and Risk Management Policy for the General Government Sector, specifically:

Core requirements		For each requirement, please specify whether compliant, non-compliant or in transition
Risk Management Framework		
1.1	The Accountable Authority shall accept ultimate responsibility and accountability for risk management in the agency.	Compliant
1.2	The Accountable Authority shall establish and maintain a risk management framework that is appropriate for the agency. The Accountable Authority shall ensure the framework is consistent with AS ISO 31000:2018.	Compliant
Internal Audit Function		
2.1	The Accountable Authority shall establish and maintain an internal audit function that is appropriate for the agency and fit for purpose.	Compliant
2.2	The Accountable Authority shall ensure the internal audit function operates consistent with the International Standards for Professional Practice for Internal Auditing.	Compliant
2.3	The Accountable Authority shall ensure the agency has an Internal Audit Charter that is consistent with the content of the ‘model charter’.	Compliant
Audit and Risk Committee		
3.1	The Accountable Authority shall establish and maintain efficient and effective arrangements for independent Audit and Risk Committee oversight to provide advice and guidance to the Accountable Authority on the agency’s governance processes, risk management and control frameworks, and its external accountability obligations.	Compliant
3.2	The Accountable Authority shall ensure the Audit and Risk Committee has a Charter that is consistent with the content of the ‘model charter’.	Compliant

Membership

The independent chair and members of the Audit and Risk Committee are:

- Independent Chair, Jan McClelland AM, 1 May 2021 to 30 April 2025
- Independent Member, Wayne Evans, 1 September 2021 to 31 August 2025
- Independent Member, Helen Freeland, 1 August 2022 to 31 July 2026.



Steve Kinmond OAM,
Children’s Guardian
13 October 2023



Peter Eaton, Director Corporate Services
peter.eaton@ocg.nsw.gov.au



Privacy and personal information

The *Government Sector Finance Act 2018* (GSF Act) requires a statement of action taken by the Office of the Children's Guardian in complying with the requirements of the *Privacy and Personal Information Protection Act 1998* and details of any reviews conducted by or on behalf of the Office of the Children's Guardian under Part 5 of the Act.

We have a Privacy Management Plan in place and we continue to comply with the *Privacy and Personal Information Protection Act 1998*, including the Information Protection Principles.

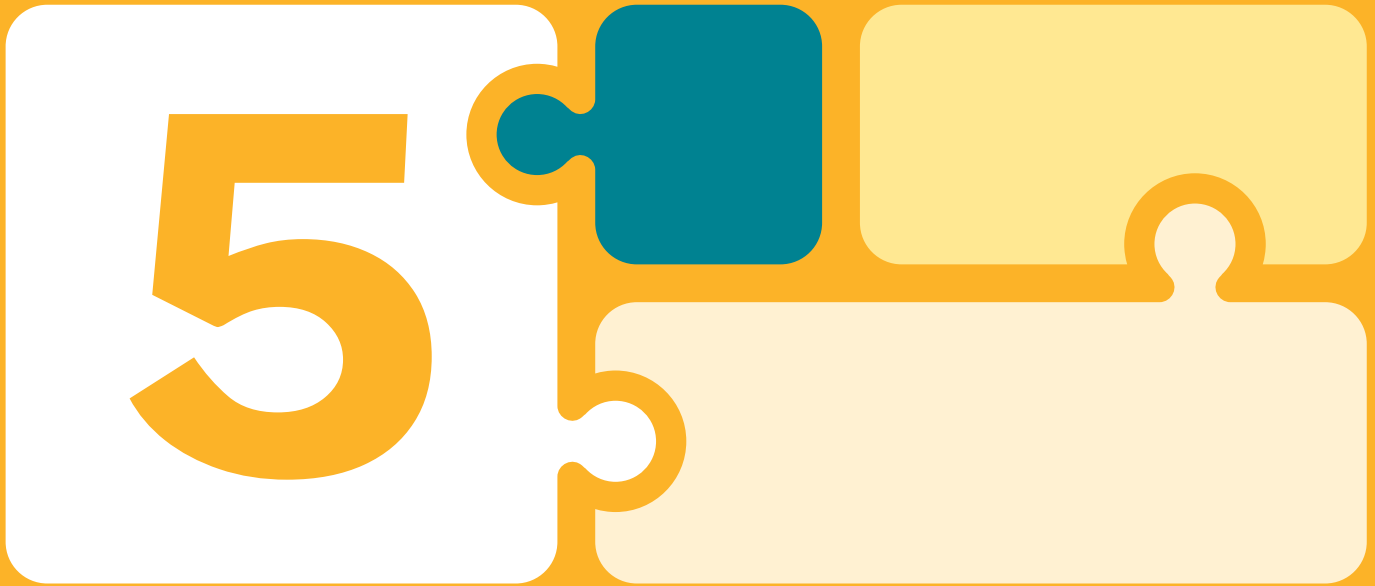
Consumer response

There were no formal complaints received during the reporting year.

The Office of the Children's Guardian's Complaints Management Policy and Procedures is publicly available on our website. It outlines who complaints should be made, how a complaint will be dealt with, and what outcomes can be expected. The Policy also provides information about how to seek an external review if a complainant is not satisfied with the outcome of the investigation by the Office of the Children's Guardian. The Policy is reviewed at least every 2 years to ensure continuous improvement.

Annual report preparation

This annual report was prepared in accordance with Premier's Memorandum M2013-09 Production costs of annual reports. There were minimal production costs for copywriting, design or printing outside existing allocation.



Sustainability

Summary of key sustainability risks and opportunities, and overall sustainability performance.

Work health and safety

There were no notifiable incidents reported in 2022–23.

There were 3 workers compensation claims commenced in 2022–23.

A new Work Health and Safety Committee was established in 2022–23, made up of Health Safety Representatives and nominated management representatives, who actively work to identify and resolve safety concerns. The committee reviews and actions the results of workplace inspections, identifies and actions any work health and safety hazards and risks, and openly supports the safety and wellbeing of our employees with various communications, promotions, and events. In 2023, an online incident and hazard register was developed.

In 2022–23 we offered an Employee Assistance Program and professional supervision to our employees.

Workforce diversity and Disability Inclusion Action Plan

We value the principles of equity and diversity and are committed to building a workplace culture that values and understands the benefits of a diverse workforce that is reflective of the wider community.

We support diversity, equity and inclusion in the workplace through various activities and events through the year. Much of this is driven through our active employee-led Diversity and Inclusion Working Group. This group supports and promotes positive attitudes towards the rich diversity within our workplace and the broader community. The Working group encouraged employees to share their own significant cultural and religious events to build awareness and understanding across the organisation, and organised acknowledgment of diversity events such as Harmony Day, Sorry Day, NAIDOC Week and the International Day of People with Disability.

We implemented new training and education programs through the year, including ‘Everyone’s Business’, an online training course aimed to build a trauma-informed workplace to support Stolen Generations survivors, mandatory Onboarding Learning which includes Aboriginal cultural competency and unconscious bias training programs. We implemented myDiversity, a new online tool to promote diversity, inclusion and belonging in the workplace.

Key achievements for 2022–23 were:

- promoted multilingual materials about the Working with Children Check application process and verifying for organisations
- the Child Safe Self-Assessment was developed, and fully translated into 5 community languages
- offered verbal Working with Children Check submissions for applicants who have either low literacy or language barriers
- continued our First Nations Cadet Program which has been running for 6 years
- participated in the Gadigal Centre Careers expo at the University of Sydney.

We are members of the Australian Network on Disability which continues to help us build our knowledge, understanding and ability to be more confident and inclusive with employees, potential employees and customers with disability.

Next year we are focusing on broadening the range of translated materials available. We will target languages in communities where English proficiency is low. We will also be launching a First Nations SAFE series for children.

Table 31: Workforce diversity groups (shown as percentages)*

Workforce diversity group	Benchmark	2020–21	2021–22	2022–23
Women	50.0	74.5	67.6	72.3
Aboriginal people and Torres Strait Islander people	3.3	8.0	6.4	5.5
People whose first language spoken as a child was not English	23.2	20.0	22.3	23.5
People with a disability	5.6	1.8	1.7	1.4
People with a disability requiring work-related adjustment	NA	0.6	0.6	0.5

* Data provided by the Public Service Commission.

NOTES:

The benchmark of 50% for representation of women across the sector is intended to reflect the gender composition of the NSW community.

The NSW Public Sector Aboriginal Employment Strategy 2014–17 introduced an aspirational target of 1.8% by 2021 for each of the sector's salary bands. If the aspirational target of 1.8% is achieved in salary bands not currently at or above 1.8%, the cumulative representation of Aboriginal employees in the sector is expected to reach 3.3%.

A benchmark from the Australian Bureau of Statistics Census of Population and Housing has been included for People whose first language spoken as a child was not English. The ABS Census does not provide information about first language but does provide information about country of birth. The benchmark of 23.2% is the percentage of the NSW general population born in a country where English is not the predominant language.

In December 2017 the NSW Government announced the target of doubling the representation of people with disability in the NSW public sector from an estimated 2.7% to 5.6% by 2027. The benchmark for 'People with disability requiring workplace adjustment' was not updated. More information can be found at: Jobs for People with Disability: A plan for the NSW public sector. The benchmark for 'People with Disability Requiring Work-Related Adjustment' was not updated.



Table 32: Distribution index for workforce diversity groups*

Workforce diversity group	Benchmark	2020-21	2021-22	2022-23
Women	100	106	101	98
Aboriginal people and Torres Strait Islander people	100	NA	NA	NA
People whose first language spoken as a child was not English	100	93	92	94
People with a disability	100	NA	NA	NA
People with a disability requiring work-related adjustment	100	NA	NA	NA

* Data provided by the Public Service Commission.

NOTES:

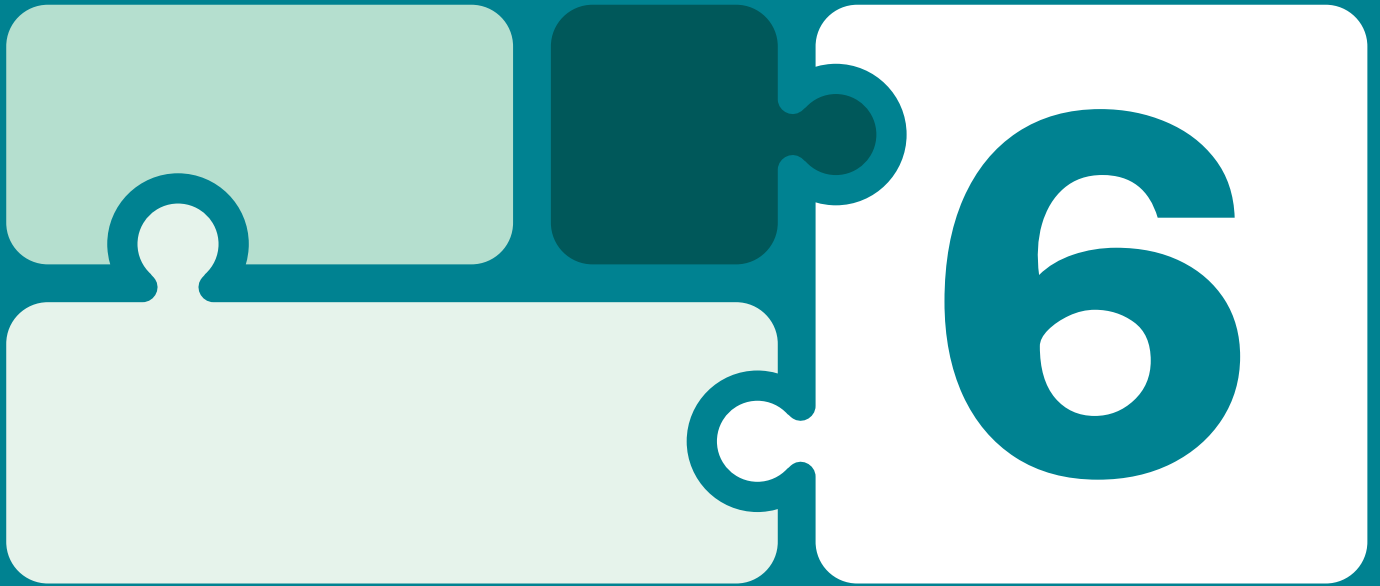
A Distribution Index score of 100 indicates that the distribution of members of the Workforce Diversity group across salary bands is equivalent to that of the rest of the workforce. A score less than 100 means that members of the Workforce Diversity group tend to be more concentrated at lower salary bands than is the case for other staff. The more pronounced this tendency is, the lower the score will be. In some cases, the index may be more than 100, indicating that members of the Workforce Diversity group tend to be more concentrated at higher salary bands than is the case for other staff.

The Distribution Index is not calculated when the number of employees in the Workforce Diversity group is less than 20 or when the number of other employees is less than 20.

Modern Slavery Act 2018 (NSW)

No issues were raised by the Anti-slavery Commissioner during the financial year.

We aim to use NSW procurement approved providers wherever possible to ensure that goods and services procured by and for the Office of the Children's Guardian were not the product of modern slavery within the meaning of the *Modern Slavery Act 2018*.



Financial Performance

Financial statements for the
period ended 30 June 2023.

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INDEPENDENT AUDITOR'S REPORT

Office of the Children's Guardian

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of Office of the Children's Guardian (the Office), which comprise the Statement by the Accountable Authority, the Statement of Comprehensive Income for the year ended 30 June 2023, the Statement of Financial Position as at 30 June 2023, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Statement of Significant Accounting Policies, and other explanatory information.

In my opinion, the financial statements:

- have been prepared in accordance with Australian Accounting Standards and the applicable financial reporting requirements of the *Government Sector Finance Act 2018* (GSF Act), the *Government Sector Finance Regulation 2018* (GSF Regulation) and the Treasurer's Directions
- presents fairly the Office's financial position, financial performance and cash flows.

My opinion should be read in conjunction with the rest of this report.

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Office in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants (including Independence Standards)' (APES 110).

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I have fulfilled my other ethical responsibilities in accordance with APES 110.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

The Children's Guardian's Responsibilities for the Financial Statements

The Children's Guardian is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, the GSF Act, GSF Regulation and Treasurer's Directions. The Children's Guardian's responsibility also includes such internal control as the Children's Guardian determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Children's Guardian is responsible for assessing the Office's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

The scope of my audit does not include, nor provide assurance:

- that the Office carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Susan Prichard
Director, Financial Audit Services

Delegate of the Auditor-General for New South Wales

21 September 2023
SYDNEY

Statement by the Children's Guardian



Pursuant to Division 7.2, section 7.6(4) of the *Government Sector Finance Act 2018* (GSF Act), I state that to the best of my knowledge and belief:

- (a) the accompanying financial statements in respect of the period ended 30 June 2023 have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the GSF Act, Government Sector Finance Regulation 2018 and mandatory NSW Treasury accounting publications.
- (b) the financial statements exhibit a true and fair view of the financial position, financial performance and cash flows of the Office.

A handwritten signature in black ink, appearing to read 'S. Kinmond'. The signature is fluid and cursive, with a large initial 'S' and a long, sweeping underline.

Steve Kinmond OAM
Children's Guardian
21 September 2023

Statement of comprehensive income

for the year ended 30 June 2023

	Notes	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
Expenses excluding losses				
Employee related expenses	2(a)	35,854	33,360	28,211
Other operating expenses	2(b)	19,686	25,403	22,372
Depreciation and amortisation expenses	2(c)	2,035	1,714	3,153
Grants and subsidies	2(d)	1,069	1,204	987
Finance costs	2(e)	-	3	12
Total expenses excluding losses		58,644	61,684	54,735
Revenue				
Appropriation	3(a)	31,721	31,697	25,130
Sale of goods and services from contracts with customers	3(b)	19,001	30,515	29,893
Grants and contributions	3(c)	313	931	77
Acceptance by the Crown Entity of employee benefits and other liabilities	3(d)	1,048	1,094	239
Total revenue		52,083	64,237	55,339
Operating result		(6,561)	2,553	604
Losses on disposal	4	-	(4)	(4)
Net Gain from derecognition of lease arrangements	5	-	-	40
Net Result		(6,561)	2,549	640
Other comprehensive income		-	-	-
Total other comprehensive income		-	-	-
TOTAL COMPREHENSIVE INCOME		(6,561)	2,549	640

The accompanying notes form part of these financial statements.

Statement of financial position



as at 30 June 2023

	Notes	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
ASSETS				
Current assets				
Cash and cash equivalents	6	2,975	10,876	5,683
Receivables	7	1,259	3,399	2,519
Total current assets		4,234	14,275	8,202
Non-current assets				
Property, plant and equipment				
• Plant and equipment	8	438	410	355
• Leasehold improvements	8	-	28	-
Total property, plant and equipment		438	438	355
Intangible assets	10	4,133	3,655	5,209
Total non-current assets		4,571	4,093	5,564
Total assets		8,805	18,368	13,766
LIABILITIES				
Current liabilities				
Payables	11	6,778	4,317	2,925
Provisions	12	2,510	4,502	3,940
Contract Liabilities	13	-	37	-
Total current liabilities		9,288	8,856	6,865
Non-current liabilities				
Provisions	12	493	588	526
Total non-current liabilities		493	588	526
Total liabilities		9,781	9,444	7,391
Net assets		(976)	8,924	6,375
EQUITY				
Accumulated funds		(976)	8,924	6,375
Total equity		(976)	8,924	6,375

The accompanying notes form part of these financial statements.

Statement of changes in equity

for the period ended 30 June 2023

	Notes	Accumulated Funds \$'000	Total \$'000
Balance at 1 July 2022		6,375	6,375
Net result for the year		2,549	2,549
Other comprehensive income		-	-
Total other comprehensive income		-	-
Total comprehensive income for the year		2,549	2,549
Transaction with owners in their capacity as owners			
Increase/(decrease) in net assets from equity transfers		-	-
Balance at 30 June 2023		8,924	8,924
Balance at 1 July 2021		5,735	5,735
Net result for the year		640	640
Other comprehensive income		-	-
Total other comprehensive income		-	-
Total comprehensive income for the year		640	640
Transaction with owners in their capacity as owners		-	-
Balance at 30 June 2022		6,375	6,375

The accompanying notes form part of these financial statements.

Statement of cash flows



for the period ended 30 June 2023

	Notes	Budget 2023 \$'000	Actual 2023 \$'000	Actual 2022 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Employee related		(34,805)	(31,591)	(27,320)
Other Operating Expenses		(19,686)	(25,802)	(24,001)
Grant and Subsidies		(1,069)	(1,204)	(987)
Finance costs		-	-	(12)
Total payments		(55,560)	(58,597)	(52,320)
Receipts				
Appropriations		31,722	31,697	25,130
Sale of goods and services		19,001	30,293	29,867
Grants and contributions		313	931	77
Other		-	1,116	1,474
Total receipts		51,036	64,037	56,548
NET CASH FLOWS FROM OPERATING ACTIVITIES	15	(4,524)	5,440	4,228
CASH FLOWS FROM INVESTING ACTIVITIES				
Purchases of plant and equipment		(189)	(194)	(156)
Purchases of leasehold improvements		-	(35)	-
Purchases of intangible assets		(799)	(18)	(497)
NET CASH FLOWS FROM INVESTING ACTIVITIES		(988)	(247)	(653)
CASH FLOWS FROM FINANCING ACTIVITIES				
Payment of principal portion of lease liabilities		-	-	(1,472)
NET CASH FLOWS FROM FINANCING ACTIVITIES		-	-	(1,472)
NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS		(5,512)	5,193	2,103
Opening cash and cash equivalents		8,487	5,683	3,580
CLOSING CASH AND CASH EQUIVALENTS	6	2,975	10,876	5,683

The accompanying notes form part of these financial statements.

Notes to the financial statements

for the period ended 30 June 2023

1. Statement of significant accounting policies

(a) Reporting entity

The Office of the Children's Guardian (the Office) is a NSW government entity and is controlled by the State of New South Wales, which is the ultimate parent. The Office is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units.

Schedule 1 of the *Government Sector Employment Act 2013* (GSE Act) establishes the Office as a Separate agency. The Office is responsible to the Minister for Families and Communities, and Minister for Disability Inclusion, and the Joint Parliamentary Committee on Children and Young People.

The financial statements for the period ended 30 June 2023 have been authorised for issue by the Children's Guardian on 21 September 2023.

(b) Basis of preparation

The Office's financial statements are general purpose financial statements which have been prepared on an accrual basis in accordance with:

- Applicable Australian Accounting Standards (which include Australian Accounting interpretations).
- The requirements of the *Government Sector Finance Act 2018* (GSF Act) and
- Treasurer's Directions issued under the GSF Act.

Judgements, key assumptions and estimations management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency, which is the entity's presentation and functional currency.

(c) Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) Accounting for the Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of GST, except that:

- The amount of GST incurred by the Office as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of an asset's cost of acquisition or as part of an item of expense and
- Receivables and payables are stated with the amount of GST included.

Cash flows are included in the Statement of Cash Flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which is recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.



(e) Fair value hierarchy

AASB13 fair value hierarchy disclosure is not required as the Office's property, plant and equipment are non-specialised assets with short useful lives and measured at depreciated historical cost as an approximation of fair value.

(f) Equity

Accumulated Funds includes all current and prior year retained funds.

(g) Comparative information

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

(h) Budgeted amounts

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (e.g. adjustment for transfer of functions between entities as a result of Administrative Arrangements Orders) are not reflected in the budgeted amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the primary financial statements are explained in Note 16.

(i) Changes in accounting policy, including new or revised Australian Accounting Standards

(i) Effective for the first time in 2022–23

The accounting policies applied in 2022–23 are consistent with those of the previous financial year except for the below changes in Accounting Standards applicable for the first time in year ending 30 June 2023.

They do not have an impact on the financial statements of the Office.

- AASB 2020-3 Amendments to Australian Accounting Standards – Annual Improvements 2018–2020 and Other Amendments
- AASB 2020-6 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current – Deferral of Effective Date
- AASB 2021-7a Amendments to Australian Accounting Standards – Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections [general editorials]
- AASB 2022-3 Amendments to Australian Accounting Standards – Illustrative Examples for Not-for-Profit Entities accompanying AASB 15

1. Statement of Significant Accounting Policies (cont'd)

(i) Changes in accounting policy, including new or revised Australian Accounting Standards (cont'd)

(ii) Issued but not yet effective

NSW Public Sector entities are not permitted to early adopt Australian Accounting Standards unless Treasury determines otherwise.

The following new Australian Accounting Standards have not been applied and are not yet effective.

- AASB 17 Insurance Contracts
- AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current
- AASB 2021-2 Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates
- AASB 2021-5 Amendments to Australian Accounting Standards – Deferred Tax related to Assets and Liabilities arising from a Single Transaction
- AASB 2021-6 Amendments to Australian Accounting Standards – Disclosure of Accounting Policies: Tier 2 and Other Australian Accounting Standards
- AASB 2021-7b Amendments to Australian Accounting Standards – Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections
- AASB 2021-7c Amendments to Australian Accounting Standards – Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections
- AASB 2022-1 Amendments to Australian Accounting Standards – Initial Application of AASB 17 and AASB 9 – Comparative Information
- AASB 2022-5 Amendments to Australian Accounting Standards – Lease Liability in a Sale and Leaseback
- AASB 2022-6 Amendments to Australian Accounting Standards – Non-current Liabilities with Covenants
- AASB 2022-7 Editorial Corrections to Australian Accounting Standards and Repeal of Superseded and Redundant Standards
- AASB 2022-8 Amendments to Australian Accounting Standards – Insurance Contracts: Consequential Amendments
- AASB 2022-9 Amendments to Australian Accounting Standards – Insurance Contracts in the Public Sector
- AASB 2022-10 Amendments to Australian Accounting Standards – Fair Value Measurement of Non-Financial Assets of Not-for-Profit Public Sector Entities

(j) Impact of COVID-19 on Financial Reporting for 2022–23

In preparing the financial statements, the Office has considered the known and possible impacts of COVID-19. The Office has included disclosures about key assumptions and judgements. The specific things considered when assessing the impact of COVID-19 on the financial statements include:

- any credit risk (expected credit losses) on receivables and other financial and contractual assets
- the impact on the remaining lives of physical and intangible assets
- the existence of any contingent assets and liabilities

The Office's financial statements for the year ended 30 June 2023 have not been significantly impacted.



2. Expenses excluding losses

	2023 \$'000	2022 \$'000
(a) Employee related expenses		
Salaries and wages (including annual leave)	27,747	24,325
Superannuation – defined benefits plans	59	51
Superannuation – defined contributions plans	2,618	2,137
Long service leave	1,105	201
Workers' compensation insurance	134	97
Payroll tax and fringe benefits tax	1,695	1,319
Redundancy payments	2	81
	33,360	28,211

Nil employee related costs have been capitalised as an asset, and therefore excluded from the above (2022:\$51K). Refer to Note 12 for further details on recognition and measurement of employee related expenses.

2. Expenses excluding losses (cont'd)

	2023 \$'000	2022 \$'000
(b) Other operating expenses		
Employment Screening	17,417	16,175
Expense relating to short-term leases	–	12
Variable lease payments	1,015	281
Corporate services	1,642	1,337
Contractors	1,420	921
Events Management	39	22
Stores and Stationery	222	238
Consultancy Costs	94	–
Telephone	78	72
Printing	76	41
Data processing	1,456	1,669
Travel	261	123
Auditor's remuneration – audit or review of the financial statements	63	61
Community education	81	72
Boards, Tribunals and Meetings	39	21
Motor vehicle	1	10
Conference and seminars	254	228
Electricity and cleaning	60	69
Fees	967	848
Maintenance expenses	13	6
Other	205	166
Total other operating expenses	25,403	22,372



Recognition and measurement

Lease expense

The Office recognises the lease payments associated with the following types of leases as an expense on a straight-line basis.

- (a) Leases that meet the definition of short-term. i.e., where the lease term at commencement of the lease is 12 months or less. This excludes leases with a purchase option.
- (b) Leases of assets that are value at \$10,000 or under when new.

Variable lease payments are not included in the measurement of the lease liability (i.e., variable lease payments that do not depend on an index or a rate, initially measured using the index or rate as at the commencement date). These payments are recognised in the period in which the event or condition that triggers those payments occurs.

Refer to Note 9 for further details on the Office's lease arrangements.

Maintenance expense

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement or an enhancement of a part or component of an asset, in which case the costs are capitalised and depreciated.

	2023 \$'000	2022 \$'000
(c) Depreciation and amortisation expense		
Depreciation		
Office equipment	7	11
Computer hardware	129	129
Leasehold improvement	7	829
Right-of-use assets	-	1,169
	143	2,138
Amortisation		
Intangibles	1,571	1,015
Total depreciation and amortisation	1,714	3,153

Refer to Note 8 Property, plant and equipment, Note 9 Leases and Note 10 Intangible assets for recognition and measurement policies on depreciation and amortisation.

2. Expenses excluding losses (cont'd)

	2023 \$'000	2022 \$'000
(d) Grants and subsidies		
Grants		
Australian Criminal Intelligence Commission	108	108
NSW Police Force	-	172
Service NSW	-	50
Department of Communities and Justice	665	657
Department of Social Services	431	-
	1,204	987

Refer to Note 3(c) for further details on recognition and measurement of Grant and Subsidies.

	2023 \$'000	2022 \$'000
(e) Finance costs		
Interest expense from lease liabilities	-	12
Unwinding of discount and effect of change in discount rate on provision	3	-
	3	12

Recognition and measurement

Finance costs consist of interest and other costs incurred in connection with borrowings (lease borrowings – finance lease liabilities determined in accordance with AASB16).

Borrowing costs are recognised as expenses in the period in which they are incurred, in accordance with Treasury's Mandate to not-for-profit NSW GGS entities.



3. Revenue

Recognition and measurement

Income recognition

Income is recognised in accordance with the requirements of AASB 15 Revenue from Contracts with Customers or AASB 1058 Income of Not-for-Profit Entities, dependent on whether there is a contract with a customer defined by AASB 15 Revenue from Contracts with Customers. Comments regarding the accounting policies for the recognition of income are discussed below.

(a) Appropriations and transfers to the Crown

	2023 \$'000	2022 \$'000
Summary of compliance		
Amount Appropriated per Appropriation Act	31,721	26,335
Variations made to the appropriations during the financial year		
• Other – changes of appropriations budget approved throughout the year	(24)	(1,205)
• Other cluster grants	931	77
Total spending authority from parliamentary appropriations, other than deemed appropriations	32,628	25,207
Add:		
The spending authority from deemed appropriations during the current year	31,409	31,341
The unutilised spending authority from deemed appropriations from prior years	5,683	3,580
Total	69,720	60,128
Less: total expenditure	(58,844)	(54,445)
Variance	10,876	5,683
Less:		
The spending authority from appropriations lapsed at 30 June	–	–
Deemed appropriations balance carried forward to following years	10,876	5,683

3. Revenue (cont'd)

Parliamentary appropriations other than deemed appropriations

The Appropriation Act 2022 (Appropriations Act) appropriates the sum of \$31.7m to the Minister for Families and Communities, and Disability Services out of the Consolidated Fund for the services of the Office for the year 2022–23.

The *Treasury and Energy Legislation Amendment Act 2022* made some amendments to sections 4.7 and 4.9 of the GSF Act. These amendments commenced on 14 November 2022 and are applied retrospectively. As a result, the lead Minister for the Office, being the Minister for Families and Communities, and Disability Services is taken to have been given an appropriation out of the Consolidated Fund under the authority of section 4.7 of the GSF Act, at the time the Office receives or recovers any deemed appropriation money, for an amount equivalent to the money that is received or recovered by the Office. These deemed appropriations are taken to have been given for the services of the Office.

In addition, government money that the Office receives or recovers, from another GSF agency, of a kind prescribed by the GSF regulation that forms part of the Consolidated Fund, is now capable of giving rise to deemed appropriations.

On 16 June 2023, the GSF Amendment (Deemed Appropriations) Regulation 2023 was approved to bring the GSF regulation in line with the above deemed appropriation amendments to the GSF Act.

The spending authority of the Minister for Families and Communities, and Disability Services for the services of the Office, from the Appropriations Act and deemed appropriation money, has been delegated/ sub-delegated to officers of the Office.

The summary of compliance has been prepared by aggregating the spending authorities for the Minister for Families and Communities, and Disability Services for the services of the Office. It reflects the status at the point in time this disclosure statement is being made.

The State Budget and related Appropriation Bill for the year commencing 1 July 2023 has been delayed and is anticipated to be tabled in September 2023. Pursuant to section 4.10 of the GSF Act, the Treasurer has authorised the payment of specified sums out of the Consolidated Fund to meet the requirements of this period. The authorisation is current from 1 July 2023 until the earlier of 30 September 2023 or enactment of the 2023 Appropriation Act.

Recognition and measurement

Income from appropriations, other than deemed appropriations does not contain enforceable and sufficiently specific performance obligations as defined by AASB15. Except as specified below, appropriations (other than deemed appropriations) are recognised as income when the Office obtains control over the assets comprising the appropriations. Control over appropriations is normally obtained upon the receipt of cash.

Deemed appropriations

The movement of section 4.7 GSF Act – deemed appropriations is a cash (not an accrual) statement. Expenditure charged against deemed appropriation refers to cash payments and additions of deemed appropriation refer to cash receipts. Deemed appropriation money is government money that the Office receives or recovers of a kind prescribed by the regulations that forms part of the Consolidated Fund and is not appropriated under the Authority of an Act.



(b) Sale of goods and services from contracts with customers/ Sale of goods and services

	2023 \$'000	2022 \$'000
Rendering of services		
• Working With Children Check fee	23,055	22,591
• NDIS Worker Check fee	6,826	6,935
• Children's employment authority fee	375	341
• Recoveries	155	26
• Other	104	-
	30,515	29,893

Recognition and measurement

Rendering of services

Revenue from the Rendering of services is recognised as or when the Office satisfies the performance obligation by transferring the promised services. The majority of the revenue comes from the paid applications for the Working with Children Check (WWCC) and the National Disability Insurance Scheme (NDIS) worker check. Both licenses meet the definition of a low value license.

Therefore, the Office has elected to recognise the revenue when the applicant pays for their application rather than when the license is issued. This is not expected to lead to any material differences as all applications for paid applicants are processed within 30 days.

Revenue from these services is recognised based on the price specified in the contract, and revenue is only recognised to the extent that it is highly probable that a significant reversal will not occur. No element of financing is deemed present as the sales are made with a short credit term. No volume discount or warranty is provided on the sale.

(c) Grants and contributions

	2023 \$'000	2022 \$'000
Grants without sufficiently specific performance obligations		
• Office of Sport	-	77
• Crown Finance Entity	431	-
Grants with sufficiently specific performance obligations		
• Department of Education	500	-
	931	77

3. Revenue (cont'd)

Recognition and measurement

Revenue is recognised in accordance with the requirements of AASB 1058 Income of Not-for-Profit Entities.

Revenue from grants without sufficiently specific performance obligations is recognised when the Office obtains control over the granted assets (e.g. cash).

Revenue from grants with sufficiently specific performance obligations are recognised as and when the Office satisfies a performance obligation by transferring the promised goods. The Office recognised the grant revenue from the Department of Education when the Self-Assessment tool was complete.

(d) Acceptance by the Crown of employee benefits and other liabilities

	2023 \$'000	2022 \$'000
The following liabilities and/or expenses have been assumed by the Crown:		
Superannuation – defined benefit plans	59	51
Long service leave	1,034	185
Payroll tax	1	3
	1,094	239

4. Gains/(losses) on disposal

	2023 \$'000	2022 \$'000
Net gain/(loss) on disposal of property, plant and equipment	(4)	(4)
	(4)	(4)



5. Other gains/(losses)

	2023 \$'000	2022 \$'000
Derecognition of right-of-use assets and lease liabilities with Property and Development NSW	-	40
	-	40

Recognition and measurement

Gain/(loss) from the derecognition of right-of-use assets and lease liabilities with Property and Development NSW

The net gain/(losses) are recognised from the derecognition of the right-of-use asset and lease liability with Property and Development NSW as at 30 June 2022. Please refer to Note 9 for further details on the derecognition.

The net gain/(loss) from the derecognition of right-of-use asset and lease liability is reconciled as below:

	2023 \$'000	2022 \$'000
Right-of-use asset		
Gross carrying value	-	4,102
Remeasurement	-	79
Less: Accumulated depreciation and Accumulated impairment provision	-	(3,986)
Net book value	-	195
Amortised balance of incentives received		
Lease liability	-	-
Net gains/(losses)	-	(235)
	-	40

Impairment losses on non-financial assets

Impairment losses may arise on non-financial assets held by the entity from time to time. Accounting for impairment losses is dependent upon the individual asset (or group of assets) subject to impairment. Accounting Policies and events giving rise to impairment losses are disclosed in the following notes. Refer to Note 9 for further details on recognition and measurement of Impairment loss.

6. Current assets – cash and cash equivalents

	2023 \$'000	2022 \$'000
Cash at bank and on hand	10,876	5,683
	10,876	5,683

Cash at bank and on hand

For the purposes of the Statement of cash flows, cash and cash equivalents include cash at bank, cash on hand, short term deposits with original maturities of three months or less and subject to insignificant risk of changes in value and net of outstanding bank overdraft.

Cash and cash equivalent assets recognised in the statement of financial position are reconciled at the end of the financial year to the statement of cash flows as follows:

Cash and cash equivalents (per statement of closing financial position)	10,876	5,683
Closing cash and cash equivalent (per statement of cash flows)	10,876	5,683

Refer Note 16 for details regarding credit risk and market risk arising from financial instruments.



7. Current assets – receivables

	2023 \$'000	2022 \$'000
Current receivables		
GST receivable	476	255
Trade receivables from contracts with customers	2,527	2,074
Prepayments	326	185
Other receivables	70	5
	3,399	2,519

Details regarding credit risk of trade receivables that are neither past due nor impaired are disclosed in Note 17(b).

Recognition and measurement

The Office recognises a financial asset or a financial liability when, and only when, it becomes a party to the contractual provisions of the instrument. To determine when the office becomes a party to the contractual provisions of the instrument, the Office considers:

- Whether the Office has a legal right to receive cash (financial asset) or a legal obligation to pay cash (financial liability); or
- Whether at least one of the parties has performed under the agreement.

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Receivables that do not contain a significant financing component are measured at the transaction price.

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

Impairment

The Office will not recognise any expected credit losses for its cash and cash equivalents and receivables balances as the counterparties to these financial assets are generally AAA rated banks or other government organisations. Any expected credit losses for such financial assets are therefore expected to be immaterial.

8. Non-current assets – property, plant and equipment

	Plant and equipment \$'000	Lease Improvement \$'000	Total \$'000
At 1 July 2021 – fair value			
Gross carrying amount	818	2,710	3,528
Less: Accumulated depreciation and impairment	(475)	(1,881)	(2,356)
Net carrying amount	343	829	1,172
Year ended 30 June 2022			
Net carrying amount at beginning of year	343	829	1,172
Additions	156	–	156
Disposals	(179)	–	(179)
Other movement (retirements)	175	–	175
Depreciation expense	(140)	(829)	(969)
Net carrying amount at end of year	355	–	355
At 1 July 2022 – fair value			
Gross carrying amount	795	2,710	3,505
Less: Accumulated depreciation and impairment	(440)	(2,710)	(3,150)
Net carrying amount	355	–	355
Period ended 30 June 2023			
Net carrying amount at beginning of year	355	–	355
Additions	195	35	230
Disposals	(4)	–	(4)
Depreciation expense	(136)	(7)	(143)
Net carrying amount at end of year	410	28	438
At 30 June 2023 – fair value			
Gross carrying amount	942	2,115	3,057
Less: Accumulated depreciation and impairment	(532)	(2,087)	(2,619)
Net carrying amount	410	28	438



Recognition and measurement

(i) Acquisitions of property, plant and equipment

Property, plant and equipment acquired are initially measured at cost and subsequently revalued at fair value less accumulated depreciation and impairment. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent, that is the deferred payment amount, is effectively discounted over the period of credit.

(ii) Capitalisation thresholds

Property, plant and equipment and intangible assets costing \$5,000 and above individually (or forming part of a network costing more than \$5,000) are capitalised.

(iii) Revaluation of property, plant and equipment

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP 21-09) and Treasurer's Direction, 'Valuation of Physical Non-Current Assets at Fair Value' (TD21-05). TD21-05 and TPP21-09 adopts fair value in accordance with AASB 116 Property, Plant and Equipment.

Property, plant and equipment is measured at the highest and best use by market participants that is physically possible, legally permissible and financially feasible. The highest and best use must be available at a period that is not remote and take into account the characteristics of the asset being measured, including any socio-political restrictions imposed by government. In most cases, after taking into account these considerations, the highest and best use is the existing use. In limited circumstances, the highest and best use may be a feasible alternative use, where there are no restrictions on use or where there is a feasible higher restricted alternative use.

Non-Specialised assets with short useful lives are measured at depreciated historical cost, as an approximation of fair value. The Office has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

(iv) Impairment of property, plant and equipment

As a not-for-profit entity with no cash generating units, impairment under AASB 136 Impairment of Assets is unlikely to arise. As plant and equipment is carried at fair value, impairment can only arise in the rare circumstances where the costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities given that AASB 136 modifies the recoverable amount test for non-cash generating assets of not-for-profit entities to the higher of fair value less costs of disposal and depreciated replacement cost, where depreciated replacement cost is also fair value.

The Office assesses at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the entity estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount.

8. Non-current assets – property, plant and equipment (cont'd)

(v) Depreciation of property, plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Office.

All material identifiable components of assets are depreciated separately over their useful lives.

Depreciation rates of the various categories of non-current assets is as follows:

	% Rate 2023	% Rate 2022
Plant and equipment		
Office furniture and fittings	14–20	14–20
Computer equipment and software	25	25
Leasehold improvements	Over the period of the lease	Over the period of the lease

(vi) Restoration costs

The present value of the expected cost for the restoration or cost of dismantling of an asset after its use is included in the cost of the respective asset if the recognition criteria for a provision are met.



9. Leases

The Office has one operating lease that are for its office premises at L1 East, 219–241 Cleveland St, Strawberry Hills. The lease commenced on 1 October 2022 and finishes on 30 September 2028.

Lease contracts are typically made for fixed periods of 2 to 6 years but may have extension options. The lease agreements do not impose any covenants, but leased assets may not be used as security for borrowing purposes. The Office does not provide residual value guarantees in relation to leases.

Extension and termination options are included in the property leases. These terms are used to maximise operational flexibility in terms of managing contracts. The majority of extension and termination options held are exercisable only by the Office and not by the respective lessor. In determining the lease term, management considers all facts and circumstances that create an economic incentive to exercise an extension option, or not exercise a termination option. Extension options (or periods after termination options) are only included in the lease term if the lease is reasonably certain to be extended (or not terminated). Potential future cash outflows have not been included in the lease liability because it is not reasonably certain that the leases will be extended (or not terminated). The assessment is reviewed if a significant event or a significant change in circumstances occurs which affects this assessment and that is within the control of the lessee.

AASB 16 Leases (AASB 16) requires a lessee to recognise a right-of-use asset and a corresponding lease liability for most leases. The entity has elected to recognise payments for short-term leases and low value leases as expenses on a straight-line basis, instead of recognising a right-of-use asset and lease liability. Short-term leases are leases with a lease term of 12 months or less. Low value assets are assets with a fair value of \$10,000 or less when new.

During the financial year 2021–22, Property and Development NSW (PDNSW) introduced changes to its Occupancy Agreement, referred to as Client Acceptance Letter (CAL). The standard CAL introduced 'substitution right' clauses that allow PDNSW to have the ultimate right to relocate an agency to another location with due consultation process. The 'substitution right' clauses effectively remove the ability of the agency to control the use of an identified office accommodation area for a specified period. These agreements should not be accounted for as a lease under AASB 16.

The Office has accepted the changes in the office accommodation arrangements with PDNSW. The main change is the introduction of the 'substitution right' clause for PDNSW to relocate the entity during the term of the agreement. The clause provides PDNSW with a substantive substitution right. Therefore, these agreements are no longer accounted for as a lease within the scope of AASB 16. The corresponding right of use assets and lease liabilities have been derecognised on 30 June 2022, the effective date of the new clause. The net impact of the derecognition is recognised in 'Other Gains/(Losses)' (refer to Note 5). From 1 July 2022, the accommodation charges will be recognised as expenses when incurred over the agreement duration.

The Office continues to carry the responsibility to make good, and to control the fit-out during the remaining occupancy period as the entity receives the economic benefits via using the fit-out or expected compensation from PDNSW upon relocation). The incentives received prior to the 30 June 2022 apply to the remaining occupancy period. Therefore, the Office's accounting treatment for make-good provision and fit-out costs in relation to the relevant accommodation remains unchanged. A liability in relation to the amortised balance of incentives received will be recognised as a liability as at 30 June 2023 and will be amortised during the remaining occupancy period.

9. Leases (cont'd)

The following amounts were recognised in the statement of comprehensive income for the year ending 30 June 2023 in respected leases where the entity is the lessee.

	2023 \$'000	2022 \$'000
Depreciation expense of right-of-use assets	–	1,169
Interest expense on lease liabilities	–	12
Variable lease payments, not included in the measurement of lease liabilities	1,015	281
Gains or losses arising from derecognising the right-of-use assets and lease liabilities with Property NSW	–	(40)
Total amount recognised in the statement of comprehensive income	1,015	1,422

The Office had total variable lease payments of \$1,015K in 2022–23 (Variable lease payments in 2021–22 is \$281K and total cash outflows for leases in 2021–22 is \$1,766K).

Recognition and measurement

The Office assesses at contract inception whether a contract is, or contains, a lease. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

The Office recognises lease liabilities to make lease payments and right-of-use assets representing the right to use the underlying assets, except for short-term leases and leases of low-value assets.



10. Intangible assets

	Software \$'000
At 1 July 2021	
Cost (gross carrying amount)	7,355
Accumulated amortisation and impairment	(1,628)
Net carrying amount	5,727
Year ended 30 June 2022	
Net carrying amount at start of year	5,727
Additions	497
Amortisation (recognised in 'depreciation and amortisation')	(1,015)
Net carrying amount at end of year	5,209
At 1 July 2022	
Cost (gross carrying amount)	7,852
Accumulated amortisation and impairment	(2,643)
Net carrying amount	5,209
Period ended 30 June 2023	
Net carrying amount at start of year	5,209
Additions	17
Amortisation (recognised in 'depreciation and amortisation')	(1,571)
Net carrying amount at end of year	3,655
At 30 June 2023	
Cost (gross carrying amount)	6,971
Accumulated amortisation and impairment	(3,316)
Net carrying amount	3,655

10. Intangible assets (cont'd)

Recognition and measurement

The Office recognises intangible assets only if it is probable that future economic benefits will flow to the Office and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition. Following initial recognition, intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Office's Intangible assets, the assets are carried at cost less any accumulated amortisation and impairment losses.

All research costs are expensed. Development costs are only capitalized when certain criteria are met.

The Office's Intangible assets (computer software) are amortised using the straight-line method within a period of 4 years. The amortisation period and the amortisation method for an intangible asset with a finite life are reviewed at the end of each reporting period.

Impairment

Intangible assets are tested for impairment where an indicator of impairment exists. The indicators considered by the Office include technical obsolescence and any plans to discontinue the use of intangible assets. If the recoverable amount is less than its carrying amount, the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

11. Current liabilities – payables

	2023 \$'000	2022 \$'000
Payables		
Accrued salaries, wages and on costs	575	472
Creditors	3,742	2,453
	4,317	2,925

Recognition and measurement

Payables represent liabilities for goods and services provided to the Office and other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method.

Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

Details regarding credit risk, liquidity risk and market risk, including a maturity analysis of the above payables are disclosed in Note 16.



12. Current/non-current liabilities – provisions

	2023 \$'000	2022 \$'000
Current employee benefits and related on-costs		
Employee benefits and related on-costs		
Recreation leave	3,278	2,921
Long service leave	575	511
Payroll tax	648	505
Fringe benefits tax	1	3
Total	4,502	3,940
Non-current employee benefits and related on-costs		
Long service leave	57	50
Payroll tax	30	27
	87	77
Other provisions		
Restoration costs	501	449
Total	588	526
Aggregate employee benefits and related on costs		
Provisions – current	4,502	3,940
Provisions – non-current	87	77
Accrued salaries, wages and on-costs (Note 11)	575	472
	5,164	4,489

Movements in provisions (other than employee benefits)

Movements in restoration provision are set out below:

Opening Balance at 1 July 2022	449
Adjustment to make good asset	-
Amount used	-
Unused amount reversed	-
Unwinding/change in the discount rate	51
Decrease: transfer previous provision to current payable	-
Closing Balance at 30 June 2023	500

12. Current/non-current liabilities – provisions (cont'd)

Recognition and measurement

(a) Employee benefits and other provisions

(i) Salaries and wages, annual leave and sick leave

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave is not expected to be settled wholly before 12 months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 Employee Benefits (although short cut methods are permitted). Actuarial advice obtained by Treasury has confirmed that the use of a nominal approach plus the annual leave on annual leave liability (using 8.4% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The Office has assessed the actuarial advice based on the Office's circumstances and has determined that all annual leave is taken within 12 months, so discounting is not applicable.

All annual leave is classified as a current liability even where the Office does not expect to settle the liability within 12 months as the entity does not have an unconditional right to defer settlement.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

(ii) Long service leave and superannuation

The Office's liabilities for long service leave and defined benefit superannuation are assumed by the Crown in right of the State of New South Wales (Crown). The Office accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown of employee benefits and other liabilities'.

Long service leave is measured at the present value of expected future payments (in accordance with AASB 119 Employee Benefits) to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using Commonwealth government bond rate at the reporting date.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (i.e., Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e., State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

(iii) Consequential on-costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, worker's compensation insurance premiums and fringe benefits tax.



(b) Provisions

Provisions are recognised when: the Office has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of obligation. When the Office expects some or all of the provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognised as a separate asset, but only when the reimbursement is virtually certain. The expense relating to a provision is presented net of any reimbursement in the 'Statement of Comprehensive Income.

(c) Superannuation annual leaving loading

The Office determined that it is not probable a liability arises to pay superannuation on annual leave loading. This position has been formed based on current inquiries, other information currently available to management, and after considering the facts from a decision in the Federal Court of Australia: *Finance Sector Union of Australia v Commonwealth Bank of Australia* [2022] FedCFamC2G 409. That decision confirmed that, in relation to the industrial agreement considered in that case, annual leave loading did not form part of ordinary time earnings and therefore, did not require superannuation contributions to be made under superannuation guarantee legislation because the obligation to pay annual leave loading was not referable to ordinary hours of work or to ordinary rates of pay. Rather, it was paid by reference to the period of annual leave, and for the purpose of compensating employees for their loss of opportunity to work additional hours at higher rates during this period.

This position will be re-assessed in future reporting periods as new information comes to light on this matter.

Notes to the financial statements

for the period ended 30 June 2023

13. Contract assets and liabilities

	2023 \$'000	2022 \$'000
Contract liabilities – current	37	-
	37	-

Recognition and measurement

Contract liabilities relate to consideration received in advance from the Office of Sport in respect of Child Safe resources for sport and recreation organisations. The contract liability is recognised based on completion of milestones as per the service contract. When the milestones are completed, this will be recognised as revenue as the performance obligations are satisfied.

14. Contingent assets and contingent liabilities

The Office is not aware of any contingent liabilities and/or assets associated with its operations.

15. Reconciliation of cash flows from operating activities to net result

	2023 \$'000	2022 \$'000
Net cash used on operating activities	5,440	4,228
Depreciation and amortisation	(1,714)	(3,153)
Decrease/(increase) in provisions	(624)	(505)
Increase/(decrease) in receivables and other assets	880	226
Decrease/(increase) in payables	(1,392)	(192)
Other gains/(losses)	(4)	36
Decrease/(increase) in Contract Liabilities	(37)	-
Net result	2,549	640



16. Budget review

Net Result

Net Result was a surplus of \$2,549k compared to a budgeted deficit of \$6,561k. This is a favourable variance of \$9,110k arising from the following items:

Expenses

Total expenses excluding losses were \$61,684k compared to a budget of \$58,644k. This was \$3,040k over budget due to an overspend in other operating expenses for \$5,717k predominately driven by higher applicant screening expenses. This overspend was offset by an underspend in employee related expenditure for \$2,494k due to staff vacancies in the first half of the financial year.

Revenue

Sale of goods and services from contracts with customers was \$30,515k against a budget of \$19,001k. This was in excess of budget by \$11,514k due to higher Working with Children Check and NDIS worker check revenue.

Grants and contributions were \$931k compared to a budget of \$313k, an increase of \$618k due to additional funding received from Department of Education to develop and implement the Child Safe Self-Assessment Tool. This grant was not budgeted.

Recurrent appropriation received was \$31,697k compared to a budget of \$31,721k. The \$24k variance relates to changes in wages awards and conditions for senior executives.

Assets and liabilities

Net assets were \$8,924k compared to a budget of (\$976k). The major variances arising on the statement of financial position are noted below:

Assets

Total Assets were \$18,368k which is higher than budget by \$9,563k. Cash and cash equivalents were \$10,876k compared to a budget of \$2,975k. This is \$7,901k higher than budget. Receivables were \$3,399k compared to budget of \$1,259k. This is \$2,140k higher than budget. Both variances are driven by the additional revenue from the Working With Children Check and the NDIS worker check.

Liabilities

Total Liabilities were \$9,444k which is lower than budget by \$337k. Payables were \$4,317k compared to a budget of \$6,778k. This is \$2,460k under budget which is due to a lower level of accruals due to the timely invoicing and payment to suppliers. Current Provisions are \$4,502k compared to budget of \$2,510k. This is higher than budget by \$1,992k due to higher recreation leave provisions.

Notes to the financial statements

for the period ended 30 June 2023

17. Financial instruments

The Office's principal financial instruments are outlined below. The financial instruments arise directly from the Office's operations and are required to finance the Office's operations. The Office does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The Office's main risks arising from the financial instruments are outlined below, together with the Office's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout this financial report.

The Office has overall responsibility for the establishment and oversight of risk management and reviews and agrees on policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Office, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Office, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the internal auditors on a continuous basis.

(a) Financial instrument categories

Financial assets Class:	Note	Category	Carrying Amount 2023 \$'000	Carrying Amount 2022 \$'000
Cash and cash equivalents	6	Amortised cost	10,876	5,683
Receivables ¹	7	Amortised cost	2,597	2,079
Financial liabilities Class:	Note	Category	Carrying Amount 2023 \$'000	Carrying Amount 2022 \$'000
Payables ²	11	Financial liabilities measured at amortised cost	3,742	2,453

1. Excludes statutory receivables and prepayments (i.e., not within scope of AASB 7)

2. Excludes statutory payables and unearned revenue (i.e., not within scope of AASB 7)



(b) Financial risks

(i) Credit risk

Credit risk arises when there is the possibility of the Office's debtors defaulting on their contractual obligations, resulting in a financial loss to the office. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Office, including cash, receivables and authority deposits. No collateral is held by the office. The Office has not granted any financial guarantees.

Credit risk associated with the Office's financial assets, other than receivables, is managed through the selection of counterparties and establishment of minimum credit rating standards.

Cash and cash equivalents

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate, adjusted for a management fee to NSW Treasury.

Receivables – trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. This evidence includes past experience, and current and forward-looking information on changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors. Sales are made on 30-day terms.

There were no aged debtors at the end of the financial year.

(ii) Liquidity risk

Liquidity risk is the risk that the Office will be unable to meet its payment obligations when they fall due. The Office continuously manages risk through monitoring future cash flows and maturities planning to ensure adequate holding of high-quality liquid assets. The objective is to maintain a balance between continuity of funding and flexibility through the use of overdrafts, loans and other advances.

The Office's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk. The Office has Corporate Credit cards with a monthly credit limit of \$40,000.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11-12. Under the Faster Payment Terms Policy, registered small businesses will be paid within 5 business days of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For late payments to registered small businesses, interest payments are no longer applicable but are at the discretion of agencies to pay. For late payments to other suppliers, the Head of an authority (or a person appointed by the Head of an authority) may automatically pay the supplier simple interest. There was no interest paid during the year 2022-23 (2021-22: nil).

Notes to the financial statements

for the period ended 30 June 2023

17. Financial instruments (cont'd)

The table below summarises the maturity profile of the Office's financial liabilities, together with the interest rate exposure.

Maturity analysis and interest rate exposure of financial liabilities

Financial liabilities	Interest Rate Exposure			Maturity dates			
	Weighted Average Effective Int. rate	Nominal Amount	Variable Interest Rate	Non-Interest bearing	< 1 year	1-5 years	> 5 years
2023							
<i>Payables:</i>							
Creditors ¹		3,742	-	3,742	3,742	-	-
		3,742	-	3,742	3,742	-	-
2022							
<i>Payables:</i>		2,453	-	2,453	2,453	-	-
Creditors ¹		2,453	-	2,453	2,453	-	-

Notes:

1. The amounts disclosed are the contractual undiscounted cash flows based on the earliest date on which the Office can be required to pay.

(iii) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Office has no exposure to foreign currency risk and does not enter into commodity contracts.

The effect on profit and equity due to a reasonably possible change in risk variable is outlined in the information below, for interest rate risk and other price risk. A reasonably possible change in risk variable has been determined after taking into account the economic environment in which the Group operates and the time frame for the assessment (i.e., until the end of the next annual reporting period). The sensitivity analysis is based on risk exposures in existence at the balance sheet date. The analysis is performed on the same basis as the prior year. The analysis assumes that all other variables remain constant.



(iv) Interest rate risk

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates.

The Office does not account for any fixed rate financial instruments at fair value through profit or loss or as at fair value through other comprehensive income. Therefore, for these financial instruments, a change in interest rates would not affect the carrying value or interest paid/earned. A reasonably possible change of +/- 1% is used, consistent with current trends in interest rates.

The basis will be reviewed annually and amended where there is a structural change in the level of interest rate volatility. The Office's exposure to interest rate risk is set out below:

	\$'000	-1% Profit	Equity	1% Profit	Equity
2023					
Financial assets					
Cash and cash equivalents	10,876	(109)	(109)	109	109
Receivables	2,597	(26)	(26)	26	26
Financial liabilities					
Payables	3,742	-	-	-	-
2022					
Financial assets					
Cash and cash equivalents	5,683	(57)	(57)	57	57
Receivables	2,079	(21)	(21)	21	21
Financial liabilities					
Payables	2,453	-	-	-	-

(c) Fair value measurement

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principal market, in the most advantageous market for the asset or liability.

Fair value compared to carrying amount

The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short-term nature of all the financial instruments.

Notes to the financial statements

for the period ended 30 June 2023

18. Related party disclosures

The Office's key management personnel were identified to be Janet Schorer, Richard Weston and Steve Kinmond as each held the role of Children's Guardian, during the year, and their compensation while in the role is as follows:

	2023 \$'000	2022 \$'000
Short-term employee benefits:		
Salaries	411	353
Other long-term employee benefits	14	20
Total Remuneration	425	373

The Office did not enter into any other transactions with key management personnel, their close family members and controlled or jointly controlled entities thereof.

In addition, during the year, the Office entered into transactions with other entities that are controlled/jointly controlled/significantly influenced by the NSW government. These transactions include:

	2023 \$'000		2022 \$'000	
	Transaction value	Net/ receivable payable	Transaction value	Net/ receivable payable
Sale of goods/services; grants and contributions and other receipts	32,966	70	25,348	5
Purchase of goods/services; grants and subsidies and other payments	(12,562)	(2,252)	(12,053)	(964)
	20,404	(2,182)	13,295	(959)

- Insurance under Treasury Managed Fund Scheme
- Long Service Leave and Defined Benefit Superannuation assumed by the Crown
- Appropriations (and subsequent adjustments to appropriations)
- Agreement with Service NSW for Working with Children Check services
- Corporate shared services with Department of Customer Service
- Service agreement with the Department of Communities and Justice
- Payment for the audit of our financial statements
- Leasing of properties from Property NSW
- Legal services received from Crown Solicitors Office
- Grant funding from the Department of Education (refer Note 3(c))



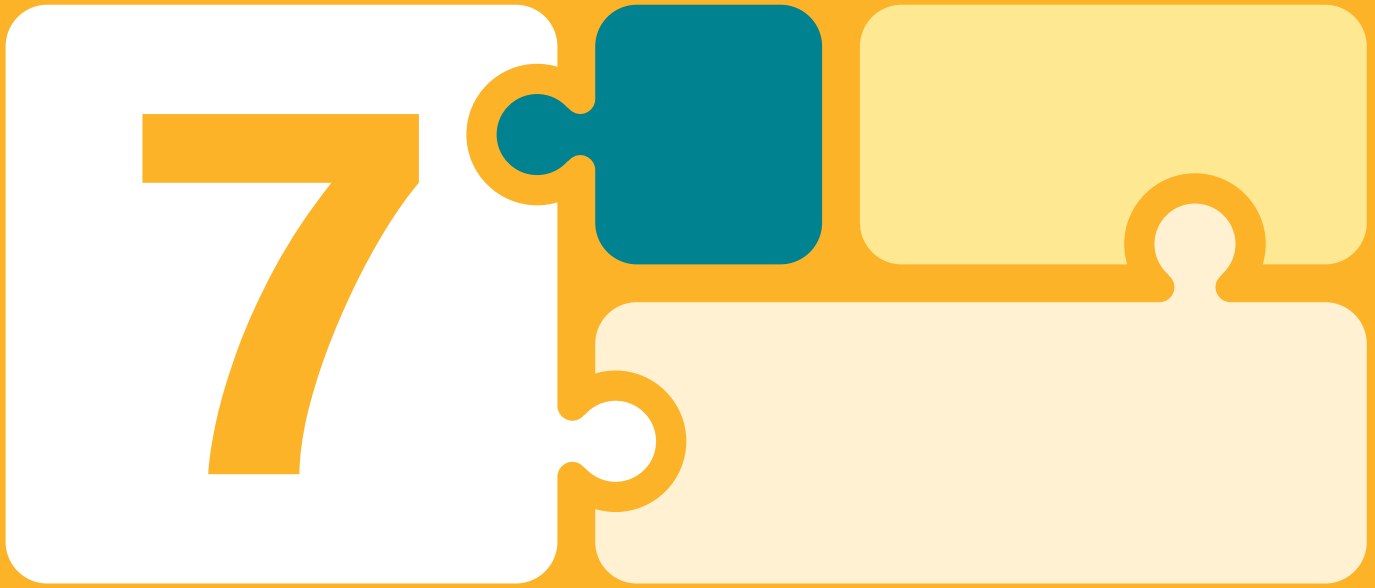
19. Program group

The Office of the Children's Guardian has one program group which supports the State Outcome to protect children and families. This State Outcome is about supporting the safety and wellbeing of vulnerable children, young people and families, and protecting them from the risk of harm, abuse and neglect.

20. Events after the reporting period

There are no events subsequent to balance date which affect the financial statements.

End of audited financial statements.



Appendix 1

Corrections to the 2021–22 Annual Report

The following table sets out corrections and additions to the data reported in our 2021–22 Annual Report. We note that discrepancies in the data that we originally reported.

Table 33: GIPA applications by type of application and outcome

Application type	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refusal to deal with application	Refusal to confirm/deny whether information is held	Application withdrawn
Personal information applications*	–	6	3	4**	4	–	–	–
Access applications (other than personal information applications)	–	1	1	0**	–	–	–	–
Access applications that are partly personal information applications and partly other	–	1	1	–	1	0**	–	–

* A personal information application is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

** Corrected data from 20221–22 Annual Report

NOTE: Access relating to ‘about a finding’ has been included in ‘access granted in part’.

Table 34: GIPA invalid applications

Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of the Act)	–
Application is for excluded information of the agency (section 43 of the Act)	11**
Application contravenes restraint order (section 110 of the Act)	–
Total number of invalid applications received	11**
Invalid applications that subsequently became valid applications	9**

NOTE: GIPA access applications relating to reportable conduct matters under Part 4 of the *Children’s Guardian Act 2019* are excluded information, pursuant to Schedule 2, clause 2 of the GIPA Act. According to section 43(2) of the GIPA Act, where an application is made for excluded information, the application is not a valid access application. These applications have not been included in the total number of invalid applications.

** Corrected data from 2021–22 Annual Report

Table 35: Conclusive presumption of overriding public interest against disclosure

These are matters listed in Schedule 1 of the Act.

Interest consideration	Number of times consideration used*
Overriding secrecy laws	–
Cabinet information	1
Executive Council information	1
Contempt	–
Legal professional privilege	–
Excluded information	5**
Documents affecting law enforcement and public safety	–
Transport safety	–
Adoption	–
Care and protection of children	–
Ministerial code of conduct	–
Aboriginal and environment heritage	–
Information about complaints to Judicial Commission**	–
Information about authorised transactions under <i>Electricity Network Assets (Authorised Transaction) Act 2016</i> **	–
Information about authorised transaction under <i>Land and Property Information NSW (Authorised Transaction) Act 2016</i> **	–

* More than one interest consideration may apply in relation to an access application and, if so, each such consideration is to be recorded.

** Categories not included and corrected data from 2021–22 Annual Report



Table 36: GIPA applications transferred to other agencies

This table refers to applications transferred to other agencies under Division 2 of Part 4 of the Act (by type of transfer).

This table was omitted from the 2021–22 Annual Report.

Type of application	Number of applications for review
Agency initiated transfer	–
Applicant initiated transfer	–

Key achievements, facts and figures about the Office of the Children's Guardian's work for 2022-23.

This report is available on our website: ocg.nsw.gov.au

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ISSN 1446-0750

