

Parliamentary Joint Committee on Children and Young People



Update on the implementation of the Child Safe Scheme

The breadth and diversity of the organisations under the Child Safe Scheme remains a key challenge to the scheme's implementation. The number of organisations captured by the Child Safe Scheme runs into the tens of thousands, and includes a broad spectrum of organisations ranging from large Government organisations to very small volunteer-run community organisations. At present, different sectors are at different stages of awareness and engagement with the Child Safe Scheme and Standards.

The development and implementation of a strategy to reach those sectors and parts of sectors where we have limited engagement is our key priority. Since the last public hearing in March, 5 new child safe directors have commenced, in 12-month roles. They have recently settled their strategic focus areas and high-level plan for the next twelve months, to embed the child safe standards.



Key Child Safe strategic focus areas

- Embedding the Scheme (via a coordinated and strategic approach to awareness raising, as well as ongoing capability building across sectors)
- Driving compliance (identifying systemic trends to inform sector capability building and further develop monitoring and compliance processes)
- Stakeholder engagement and governance (establishing governance arrangements to facilitate collaboration, strategic sector engagement)
- Evaluation and reporting (measuring impact and building an evidence base, evaluating implementation of the Standards).

We are taking a bespoke approach to the sectors under the scheme – for example we are working very closely with the religious sector, to assist them to develop foundational resources, including policies and procedures, and establish the required governance arrangements. For those organisations that are more progressed, we are strongly

promoting the use of the Child Safe Self Assessment to help organisations identify where there are gaps in their implementation of the Child Safe Standards. We are also working closely with highly regulated sectors to identify how existing frameworks can be leveraged to support embedding the Child Safe Standards.

Gaps in the Child Safe Scheme

The *Children's Guardian Act 2019* defines 'child safe organisation' to include a broad range of government and non-government entities that provide diverse services, and vary in their responsibility for, and risk to, children. Currently, the legislative definition of 'child safe organisation' includes certain parts of the Department of Communities and Justice (DCJ) that provide services to children and certain entities contracted by DCJ. Out-of-home care providers and adoption services are captured by this definition, but some entities contracted or funded by DCJ to provide services to children, are not defined as a 'child safe organisation'. These include short-term crisis accommodation for children and NGO service providers funded by DCJ to deliver supports to children and families at risk of a statutory child protection intervention, such as early intervention and family preservation services.

In the consultation and set up phase of the Scheme, it was envisaged that these types of contracted and funded services would be within scope of the Scheme. However, last year our office identified that the legislative definition of 'child safe organisation' is not currently broad enough to capture a number of DCJ funded and contracted organisations that provide services to children.

Considering the nature of services and supports provided by these, and the extent to which these entities are responsible for keeping children safe, it is our view that they should be brought within the ambit of the Scheme. This would involve legislative amendment to extend the definition of 'child safe organisation' to capture entities contracted and funded by DCJ to provide services to children where the contract requires the entity to comply with the Child Safe Standards.

In practice, this reform would mean that, where appropriate, entities contracted by DCJ to provide services to children would be required to demonstrate their commitment to child safety by implementing systems, policies, processes and practices aligned with the Child Safe Standards.

WWCC Scheme

As previously advised, the OCG will soon publicly consult on the WWCC scheme, as part of the review of the *Child Protection (Working with Children) Act 2012* (WWC Act), which commenced on 15 June 2013. The review of the WWC Act provides an opportunity to examine the current operation of the Act, and to assess whether it provides a 'fit-for-purpose' framework for the protection of children in NSW.

The paper raises a broad range of issues, including:

- the risks posed by low WWCC verification rates among people who hold a WWCC
- clarification of the definition of child-related work, and
- whether the Children’s Guardian should have the discretion to waive proof of identity requirements, or extend a person’s WWCC clearance, in special circumstances.

The value of the WWCC scheme from a child protection perspective is dependent on our office being able to inform the employer if a person has been refused a clearance or if they receive an interim bar. If the employer does not verify their workers or volunteers, we cannot inform them if they are barred from working with children. It is essential that we are in a position to promptly identify and advise employers in these circumstances.

We are working with the Minister’s Office to settle the public consultation paper relating to the review of the *Child Protection (Working with Children) Act 2012*.

Relevant to this issue, I previously provided advice about discussions with ACIC regarding the potential for our office to provide a ‘one stop shop’ probity check in all circumstances where our processing of a WWCC application shows that the applicant does not have a relevant criminal record. This approach would mean there would be no need for their employer to apply for a national criminal record check. This is the case for around 90% of paid WWCC applicants. These discussions are ongoing, and we hope the issue can be resolved in the near future.

Information sharing across borders

In November 2024, the Ministerial Forum for Child Safety chaired by the Hon Mark Dreyfus KC MP (the Attorney General) received unanimous support by all Ministers that all jurisdictions re-commit to adopt the recommendation of the *Royal Commission into Institutional Responses to Child Sexual Abuse’s* relating to national information sharing. An aspect of national information sharing that all Ministers agreed on was to progress national continuous checking. The Hon Mark Dreyfus KC MP said at the meeting:

“National continuous checking needs to be an immediate priority, not only because of its real-time function in monitoring for those who pose a risk to children and young people, but it is also an important step towards harmonisation of working with children checks between jurisdictions.”

The Commonwealth hosted several co-design workshops with all WWCC Screen Units for their input into a National Continuous Checking Capability (NCCC) project and future state. NSW WWCC is in an advanced position than other WWCC jurisdictions and were able to share our learnings and contribute to an NCCC system build that that does not degrade NSW’s WWCC Scheme or functionality and continues to protect children.

My office advocated for a future state system (rather than ACIC building an iterative design and build concept) of NCCC that must continually monitor *all* WWCC applicants nationally (including monitoring of Commonwealth offences) regardless of WWCC

status; for information to be shared in real-time; and national information sharing between police partners and screening units to be automated. Our NSW Police colleagues were in support of our advocacy. Further, my office reinforced the importance of information sharing, whereby jurisdictions are alerted via the NCCC of relevant charges *regardless* of that person not holding a WWCC in that state. Discussions are in the early stages and further exploration is necessary before ACIC can put forward a draft blueprint. No timelines or commitment has been set by ACIC.

An interjurisdictional Information Sharing Sub-Working Group (ISS-WG) was established in May 2024 to progress work on a national child safety and wellbeing information sharing scheme under the National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030.

The ISS-WG will consider legislative and administrative options for a Scheme to address recommendations 8.6 to 8.8 of the Royal Commission into Institutional Responses to Child Sexual Abuse, as proposed by NSW and agreed to nationally at a Ministerial Forum on Child Safety in November 2023.

The ISS-WG is being co-chaired by NSW (DCJ) and Victoria, and includes representatives from the Commonwealth, South Australia, Western Australia and Queensland, as well as other NSW representatives from the OCG and Department of Education.

NSW is working closely with Victoria, the Commonwealth and the broader ISS-WG to develop a workplan and finalise a national survey for distribution to help identify current information sharing provisions in each jurisdiction to support this work.

NSW is a key player in terms of advocating for the reforms outlined above. It is essential that the other states and territories also support these necessary reforms.



First Nations Executive Director-Policy and Programs

The role of First Nations Executive Director-Policy and Programs, will very soon be advertised, following consultation with First Nations leaders. I'm very pleased that issues raised in consultation with Aboriginal leaders have been satisfactorily resolved. In particular, it was pleasing to receive recent advice from AbSec around the sense of urgency to recruit and appoint to the role. We also note feedback that the role is not a replacement or solution for the absence of an Independent Commissioner for Aboriginal and Torres Strait Islander Children and Young People.

Alternative Care Arrangements

We are close to finalising a submission in response to DCJ's System Review into Out-of-Home Care. Our submission points to issues my office has identified regarding Alternative Care Arrangement (ACA) placements through our monitoring review and other OOHC accreditation and monitoring work-in-particular the need to strengthen the quality, oversight and care for children in these placements.

We also note the Auditor General's recent reports - Safeguarding the rights of Aboriginal children and young people in the child protection system and Oversight of the Child Protection System. Both reports make several recommendations relevant to our work, and also highlight the importance of a strong oversight system for children in out of home care. The reports also highlight the need for better support for carers and the critical need to recruit more carers.

Our submission will briefly canvass a range of issues relating to the adequacy of the oversight system. For example, under the current legislative framework, we do not have jurisdiction to handle complaints about foster carers and children and young people,

notwithstanding our accreditation and monitoring function, (the only exception in this regard relates to our work in relation to reportable conduct matters).

Relevant to this issue, we have recently convened a sector working group comprised of 13 non-government out-of-home care providers to develop a suite of resources to help the sector better-support carers. These resources are currently being finalised and will be published on the OCG website. The working group has provided opportunity for agencies to come together to discuss challenges in the carer space and to share examples of good practice.

In recognition of the foster carer shortage in NSW, and the need to better support foster carers in their critical roles, the OCG is proposing to establish an external Carer Engagement and Advisory Committee to work on identified priorities in the sector. The group would also provide critical advice to senior leaders in the out-of-home care sector, carer representative organisations and peak bodies.



Youth Engagement and Youth Advisory Council

As part of OCG's work in keeping children safe, we are committed to creating opportunities for young people to be involved in organisational decision making. There are several areas of OCG's work where young people can provide advice and hold us accountable to this commitment and where we can also demonstrate good practice in youth participation.

For example, we are currently developing resources to support the out-of-home care sector to move to a new Code of Practice which will replace the current 23 Standards. The Code of Practice sets out how out-of-home care and adoption service providers are to implement the 10 Child Safe Standards and will be the new accreditation criteria. We have engaged with UC Change, a consultation group facilitated by DCJ comprised of young people aged 16 to 21 years with a lived experience of out-of-home care, to provide us with their views on these resources.

Scoping work to establish an OCG Youth Advisory Council is underway as we need to make sure we have the right processes and supports in place so that it is a meaningful, safe and positive experience for young people. This requires resourcing including both funds, for example to pay young people for their time, and staffing, that is appropriately qualified staff who can provide the support young people may need. While this important planning is taking place, we will build our relationships with groups such as UC Change, CREATE's Youth Advisory Groups and AbSec's Youth Ambassador Program to involve those young people in OCG's work.

