

# Annual Report 2014–15

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The Hon Don Harwin MLC  
President of the Legislative Council  
Parliament House  
SYDNEY NSW 2000

The Hon Shelley Hancock MP  
Speaker of the Legislative Assembly  
Parliament House  
SYDNEY NSW 2000

Dear Mr President and Madam Speaker

In accordance with section 187 and 190 of the *Children and Young Persons (Care and Protection) Act 1998*, I am pleased to present to Parliament the Children's Guardian annual report for the 2014–15 financial year.

The annual report has been prepared in accordance with the *Annual Reports (Departments) Act 1985* and the *Children and Young Persons (Care and Protection) Act 1998*.

As provided by section 190(2) of the *Children and Young Persons (Care and Protection) Act 1998*, I recommend that this report be made public forthwith.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'K Boland'.

Kerryn Boland  
Children's Guardian  
29 October 2015

Office of the Children's Guardian  
Annual Report 2014–15

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## Foreword



The year 2014–15 saw a strong period of consolidation and achievement for the Office of the Children’s Guardian.

The NSW Carer’s Register was launched, providing better protection for children and young people in care, and further supporting the agencies that provide that care.

Important improvements were made to the legislation that underpins our work, much of it taking into account the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse. Continuing to participate in the royal commission process, and responding its findings in the interests of the children and young people of NSW will be an ongoing focus of our work.

We are also progressing through the phase-in groups for the Working With Children Check, including targeted information campaigns and support for each group to help them meet their obligations to keep kids safe.

Since the new Working With Children Check began in June 2013, we have processed almost 1 million applications. In the first two full years of operation, almost 2,000 applicants were risk assessed by our team and more than 700 applicants barred from working with children. This is an important child safety mechanism.

In our engagement with stakeholders one of our key challenges is to communicate the strengths of the new system, as well as highlighting its limitations: a child safe organisation does not begin and end with the Working With Children Check.

With the number of applications processed having exceeded expectations, there is clearly strong community support for the Working With Children Check. This system tells us one thing: does an applicant have on record anything in their past that should ban them from working with children?

This is a very important thing to know, but it is just the start for organisations when it comes to being child safe.

One of the key strengths of the new system is continuous checking. This means that if an applicant is cleared to work with children, then commits an offence that demonstrates they are a risk to children, their clearance can be revoked and their employer notified to remove them from child related work.

In the first two full years of operation, 172 people had their clearances revoked as a result of continuous checking, with a further 47 issued with an interim bar pending a risk assessment. Of the people barred from working with children under the Working With Children Check, about 20% were barred because of their behaviour after receiving a clearance.

It is important for us all to recognise that a Working With Children Check can tell us what a person has done – but not what a person will do, or is capable of doing.

That is why child safe systems and practices within organisations are so vital and why organisations that involve children need to go well beyond what is mandatory under the Working With Children Check. Key to this is putting children's rights and bests interests at the core of how an organisation works, and developing and maintaining a culture where children are used to being listened to and taken seriously.

One of the things that the royal commission has told us is that if children do not feel they can speak up or if what they say is not listened to and followed up, the consequences can be truly awful.

Section 2.1 of this report outlines our work with stakeholders to progress the child safe message. This work continues to evolve with the active participation of the many organisations who work with children in NSW. The strength and commitment of these organisations in their work for children is inspiring – and the learning is far from one way.

In concluding I express my thanks to the thousands – indeed millions – of people who work in the interests of children in NSW, and to the staff of the Office of the Children's Guardian for their professionalism and support over the past year.

A handwritten signature in dark blue ink, appearing to read 'K Boland'.

**Kerryn Boland**

Children's Guardian

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# Contents

Foreword .....	v
1 Overview .....	10
1.1 Legislation.....	10
1.2 Structure.....	10
1.3 Purpose .....	11
1.4 Shared results.....	11
1.5 Stakeholders.....	11
1.6 Values.....	12
1.7 History .....	12
1.8 Reporting framework.....	13
1.9 Performance overview.....	14
2 Child safe organisations .....	15
2.1 Stakeholder engagement .....	15
2.2 Regulatory scheme for out-of-home care and adoption.....	23
2.3 Voluntary out-of-home care.....	31
2.4 Children's employment .....	38
2.5 Compliance and auditing: Working With Children Check .....	46
3 Working With Children Check operations .....	51
3.1 Working With Children Check applications and clearances.....	51
3.2 Risk assessment .....	54
3.3 Bars and appeals .....	57
3.4 Employer registration and verification of Working With Children Checks .....	58
4. Policy and legal .....	60
4.1 Policy and legal – general .....	60
4.2 Recommendations for legislative and administrative change .....	60
4.3 NSW Child Sex Offender Counsellor Accreditation Scheme .....	65
Appendices .....	68
Appendix A: Our financial statements .....	69
Appendix B: Our people.....	94
Appendix C: Workforce diversity .....	96
Appendix D: Legislative framework.....	97
Appendix E: Public information and access.....	97
Appendix F: Risk management and insurance activities.....	100
Appendix G: Payment of accounts .....	102
Appendix H: Consultants .....	103
Appendix I: Research and development .....	103

Appendix J: Major works in progress .....	103
Appendix K: Consumer response .....	104
Appendix L: Digital information security policy attestation .....	104
Appendix M: Annual report preparation .....	104
Appendix N: Compliance with annual reporting requirements .....	105

## Tables

Table 1.1 Performance overview .....	14
Table 2.1 Child safe programs – 1 July 2014 to 30 June 2015.....	17
Table 2.2 Child safe programs increase: 2013–2015 sessions .....	17
Table 2.3 NSW districts and number of services .....	35
Table 2.4 Summary of voluntary out-of-home care activity 2014–15 .....	37
Table 2.5 Variations by employment type.....	40
Table 2.6 Investigating potential breaches.....	42
Table 2.7 Children's employment productions 2010–2015 .....	44
Table 2.8 Summary outcomes, compliance program 2014-15.....	49
Table 3.1 Identity confirmed applications by sector .....	52
Table 3.2 Number of Working With Children Checks processed .....	53
Table 3.3 Records review .....	53
Table 3.4 Risk assessments .....	55
Table 3.5 Risk assessments and results .....	56
Table 3.6 Number of continuous check events .....	57
Table 3.7 Refusals 2013–14 and 2014–15.....	57
Table 3.8 Number of verifying employers as at 30 June 2015 .....	58
Table 3.9 Number of applications verified as at 30 June 2015 .....	58
Table 3.10 Workplace records and NSW Ombudsman notification of concern.....	59
Table A1 Average remuneration of senior executives in each band at the end of the reporting year.....	94
Table A2 Percentage of total employee-related expenditure relating to senior executives.....	94
Table A3 Number of senior executives employed at the end of the reporting year, by band and gender .....	94
Table A4 Actual number* of employees by category .....	94
Table A5 Trends in the representation of workforce diversity groups .....	96
Table A6 Trends in the distribution of workforce diversity groups .....	96
Table A7 Number of applications by type of applicant and outcome* .....	98
Table A8 Number of applications by type of application and outcome .....	98
Table A9 Invalid applications .....	98
Table A10 Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of Act .....	99
Table A11 Other public interest considerations against disclosure: matters listed in table to section 14 of Act .....	99

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Table A12 Timeliness .....	99
Table A13 Number of applications reviewed under Part 5 of the Act (by type of review and outcome) .....	99
Table A14 Applications for review under Part 5 of type Act (by type of application) .....	100
Table A15 Insurance policies held in 2014-15.....	101
Table A16 Aged analysis at the end of each quarter .....	102
Table A17 Accounts due or paid within each quarter.....	103
Table A18 Consultancies of value equal to or more than \$50,000 .....	103
Table A19 Consultancies of value less than \$50,000 .....	103
Table A20 Compliance with annual reporting requirements .....	105

## Figures

Figure 1.1 Organisational chart.....	11
Figure 2.1 Department of Family and Community Services local districts .....	35
Figure 2.2 Children's employment productions 2010–2015.....	43
Figure 2.3 Productions by industry type 2014-15 .....	44
Figure 2.4 Number of instances children employed in productions by age group 2014-15 .....	45

# 1 Overview

The Office of the Children's Guardian is established under the *Children and Young Persons (Care and Protection) Act 1998* as a statutory office.

The Office of the Children's Guardian supports the Children's Guardian in the exercise of her functions. It is an independent public service agency that reports to the Minister for Family and Community Services and to the NSW Parliament.

On 15 June 2013, responsibility for administering the Working With Children Check, encouraging organisations to be safe for children, and for administering the Child Sex Offender Counsellor Accreditation Scheme, was transferred from the Commission for Children and Young People to the Office of the Children's Guardian.

The services of the Office of the Children's Guardian are delivered under **NSW 2021 Goal 13: Better protect the most vulnerable members of our community and break the cycle of disadvantage.**

## 1.1 Legislation

The principal functions under the *Children and Young Persons (Care and Protection) Act 1998* are:

- exercise functions relating to persons engaged in child-related work, including Working With Children Check clearances, under the Child Protection (Working with Children) Act 2012
- promote the best interests of all children and young persons in out-of-home care
- ensure that the rights of all children and young persons in out-of-home care are safeguarded and promoted
- establish a register for the purpose of the authorisation of individuals as authorised carers, and to maintain that register, in accordance with the regulations
- accredit designated agencies and to monitor their responsibilities under this Act and the Regulations
- register organisations that provide or arrange voluntary out-of-home care and to monitor their responsibilities under this Act and the Regulations
- exercise functions relating to the employment of children, including the making and revocation of exemptions from the requirement to hold an employer's authority
- develop and administer a voluntary accreditation scheme for persons working with persons who have committed sexual offences against children
- develop and administer a voluntary accreditation scheme for programs for persons who have committed sexual offences against children
- encourage organisations to develop their capacity to be safe for children.

The Office of the Children's Guardian also accredits and monitors non-government adoption service providers under the *Adoption Act 2000* and Adoption Regulation 2003, under delegation from the Secretary of the Department of Family and Community Services.

The frameworks for the statutory out-of-home care accreditation program, and voluntary out-of-home care program, are provided in the Children and Young Persons (Care and Protection) Regulation 2012.

The framework for the regulation of children's employment is provided in the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010.

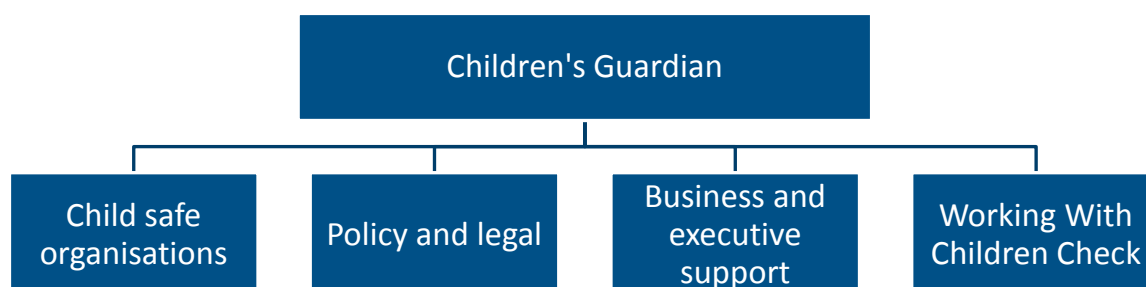
The *Child Protection (Working with Children) Act 2012* and the Child Protection (Working with Children) Regulation 2013 provide the legislative framework for functions relating to people engaged in child-related work, including the Working With Children Check and child safe organisations.

## 1.2 Structure

At 30 June 2015, there were 121 employees working for the Office of the Children's Guardian on either a part-time or full-time basis.

The structure of the Office of the Children's Guardian at 30 June 2015 was:

**Figure 1.1 Organisational chart**



At 30 June 2015 the executive team was:

- Ms Kerry Boland, Children's Guardian, Bachelor of Laws, Graduate 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 Valerie Griswold, Director, Policy and legal, Bachelor of Science, Juris Doctor, Executive Master of Public Administration
- Ms Liz McGee, Director, Business and executive support, Diploma of Teaching (Primary), Graduate Diploma Public Administration
- Mr David Rees, Director, Working With Children Check, Master of Arts (History), Diploma of Teaching.

### 1.3 Purpose

To protect children by promoting and regulating quality, child-safe organisations and services.

### 1.4 Shared results

- Child-related organisations and employers of children adopt child-safe policies and practices.
- Organisations that deliver adoption and out-of-home care services meet quality standards.
- Individuals in child-related work and employers of children meet legislative requirements concerning working with children.
- The Office of the Children's Guardian is innovative, responsive, and accountable.

### 1.5 Stakeholders

- Designated agencies (organisations accredited to arrange or provide statutory out-of-home care).
- Organisations registered to arrange and provide voluntary out-of-home care.
- Non-government adoption service providers.
- Prescribed employers of children.
- Organisations and people providing services to children and young people in out-of-home care or placed for adoption, or employing children in prescribed employment.
- Organisations and people working in the interests of children and young people in out-of-home care, placed for adoption, or in prescribed employment.
- Organisations that represent and support carers.
- NSW and Commonwealth bodies that fund the above services.
- NSW Ombudsman and Official Community Visitors.
- People working for, with, and in the interests of, children and young people.

## 1.6 Values

Respect for children and young people and their diversity – we respect children and young people and their diversity.

Participation of children and young people – we promote and monitor the involvement of children and young people in decisions relating to their lives.

Cooperative partnerships – we consult and work cooperatively with our partners to achieve shared results.

Staff contribution – we encourage innovation, teamwork, continuous improvement and learning.

Strong organisational foundation – we seek the best available information and efficiently undertake thorough analysis on which to base our decisions and provide timely, objective advice.

Partnerships with Aboriginal people – we support and promote the principles of reconciliation and partnership when working with Aboriginal people.

## 1.7 History

Reviews of the child protection system in NSW during the 1990s identified the need for an independent Children's Guardian. These included the 1992 review of substitute care undertaken by the Ministerial Review Committee (the Usher Committee), the 1997 Review of the Children (Care and Protection) Act 1987 (the Parkinson Review) and the 1997 Royal Commission into the NSW Police Service. The Parkinson Review also recommended the establishment of a standards-based accreditation scheme for out-of-home care.

In January 2001, the Office of the Children's Guardian was established and Ms Linda Mallet was appointed as the first Children's Guardian.

In 2003, the accreditation powers of the Children's Guardian were proclaimed, NSW out-of-home care standards were introduced and the functions of the Children's Guardian were expanded to include authorising certain types of children's employment, such as employment in the entertainment industry.

The out-of-home care accreditation program began in July 2003. Agencies arranging statutory out-of-home care at that time were granted interim accreditation. This enabled them to continue arranging statutory care while working towards accreditation. Agencies with interim accreditation had until 14 July 2013 to be fully accredited by the Children's Guardian and remained in the quality improvement program while their interim accreditation was in force.

The first designated agency was accredited in March 2004. In July of that year the Office of the Children's Guardian began auditing the case files of designated agencies as part of the statutory out-of-home care case file audit program.

In 2004, the Office of the Children's Guardian held its first children's employment regulatory review, resulting in the Children and Young Persons (Care and Protection-Child Employment) Regulation 2005.

The accreditation of non-government adoption providers was delegated to the Children's Guardian in July 2005.

Kerryn Boland was appointed Children's Guardian in October 2005.

In April 2006, the Office of the Children's Guardian became part of the newly established Office for Children.

The out-of-home care accreditation and quality improvement program was reviewed in 2007. As a result it was recommended that the program move from desk-based compliance assessment to strengths-based assessments that incorporated agency visits and inspections. The review resulted in a significant overhaul of the regulatory framework for the program.

The 2008 Special Commission of Inquiry into Child Protection Services in NSW recommended that the functions of the Children's Guardian be expanded to include the regulation of voluntary out-of-home care and the repeal of several non-proclaimed functions of the Children's Guardian. The Special Commission also recommended that responsibility for arranging the provision of statutory out-of-home care be progressively transferred from government providers to designated non-government agencies.

In July 2009, the Office for Children was dissolved and the Children's Guardian became part of Communities NSW.

Voluntary out-of-home care legislation commenced in July 2010 and the revised *NSW Standards for Statutory Out-of-Home Care* were released in July of that year, accompanied by a new strengths-based accreditation system.

In 2010, the Children's Guardian began a second review of the children's employment regulation, resulting in the current Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010.

From 3 April 2011, the Children's Guardian was located within the Office of Communities, part of the Department of Education and Communities.

On 17 May 2013, the Office of the Children's Guardian was re-established as a Division of the Government Service, reporting to the Minister for Family and Community Services and to NSW Parliament.

On 15 June 2013, the *Child Protection Legislation Amendment (Children's Guardian) Act 2013* transferred responsibility for the Working With Children Check, child safe organisations and the Child Sex Offender Counsellor Accreditation Scheme to the Office of the Children's Guardian.

On 29 October 2014 changes came into effect for the *Child Protection (Working with Children) Act 2012* and Child Protection (Working with Children) Regulation 2013. These changes included:

- extension of Working With Children Check requirements to additional roles/persons
- phase-in date brought forward for principal officers
- self-employed people – the Children's Guardian is now authorised to require a self-employed person to comply with Working With Children Check requirements ahead of their scheduled phase-in date.

More details of legislative change relevant to the Office of the Children's Guardian can be found in Chapter 4.

## 1.8 Reporting framework

The *Children and Young Persons (Care and Protection) Act 1998* requires the Children's Guardian to provide a report to NSW Parliament on the operations of the preceding year. This report is presented in accordance with the Act and provides a description of the activities of the Office of the Children's Guardian for 2014–15, including the making of recommendations for legislative and administrative change and an evaluation of the responses to those recommendations. This report can be found at [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au).

The NSW Parliamentary Joint 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*.

## 1.9 Performance overview

**Table 1.1 Performance overview**

**To protect children by promoting and regulating quality, child-safe organisations and services**

Child-related organisations and employers of children adopt child-safe policies and practices	Organisations that deliver adoption and out-of-home care service meet quality standards	Individuals in child-related work and employers of children meet legislative requirements concerning working with children	Office of the Children's Guardian is innovative, responsive, and accountable
899 risk assessments conducted under Working With Children Check	Monitored 81 statutory out-of-home care designated agencies	357,241 Working With Children Check applications processed	Implemented requirements relating to the <i>Government Sector Employment Act 2013</i>
5,866 people attended Child safe organisations workshops and seminars	162 agencies authorised to provide or arrange voluntary out-of-home care	All child safe organisations workshops and events include information on the Working With Children Check, 388 people attended specialist Working With Children Check sessions	Implemented electronic document records management across the organisation
Regular e-newsletters distributed to more than 16,000 subscribers	NSW Carers Register became operational in 2015	Compliance audit of Working With Children Check registered employers was conducted for the following sectors: Adult household members of authorised carers, authorised carers (out-of-home care, foster care and kinship carers), child protection, disability services, justice centres, religious services – religious leaders, school cleaners, youth workers	Web-based technologies used to manage Working With Children Check processes and stakeholder engagement
	Work close to finalised for the merge of out-of-home care standards and adoption standards	1,011 notifications processed for children's employment	Annual reporting under the <i>Annual Reports (Departments) Act 1985</i> and the <i>Children and Young Persons (Care and Protection) Act 1998</i>  Online Working With Children Check user survey distributed, with 86% reporting the system is easy to use.

## 2 Child safe organisations

### 2.1 Stakeholder engagement

To support the Children's Guardian in the exercise of her functions, the Office of the Children's Guardian engages with a wide range of stakeholders, as outlined in Chapter 1.

The Office of the Children's Guardian engages with its stakeholders across the full range of its activities, with particular focus on building stakeholder capacity to provide child safe practices and services.

Mechanisms include face-to-face meetings, electronic newsletters and updates, seminars and workshops, presentations at conferences and events, and formal consultations. These are often targeted as specific stakeholder groups, such as agencies providing out-of-home care, or employers of children.

Mechanisms to engage with the full range of our stakeholders and the wider community include an opt-in electronic newsletter, the website [kidsguardian.nsw.gov.au](http://kidsguardian.nsw.gov.au), and engaging in social media. These provide a means to keep stakeholders informed of important legislative and regulatory change, as well as to promote resources for organisations to build their capacity to be child safe.

At 30 June 2015, our electronic newsletter had more than 15,500 subscribers. Relaunched on 14 July 2014, the website attracted more than 680,000 users during 2014-15.

#### *Child safe organisations training*

##### **Background**

A principal function of the Children's Guardian is to encourage organisations to develop their capacity to be safe for children.

The Office of the Children's Guardian achieves this in several ways, such as the delivery of a broad range of educational programs including full-day workshops and half-day seminars. These programs aim to improve the capacity of organisations to develop and maintain a safe environment for children and young people.

Topics covered include:

- effective risk management and situational prevention in a child-safe context
- creating and nurturing a positive, child-centred culture
- training and professional development for staff
- managing complaints and allegations
- compliance with the Working With Children Check.

### Community engagement strategy

The child safe organisations team delivers a comprehensive information and education program, underpinned by a community engagement strategy.

#### *Example: Child Safe Sports*

In partnership with NSW Office of Sport, Sport NSW and Football NSW, the Office of the Children's Guardian developed a targeted, child safe sports education program. Designed specifically for the sporting and recreational sectors, the program provided clubs with sector-specific information and tools and an introduction to child safe practices in sport.

The program included 56 specialised seminars in 48 locations across NSW including Broken Hill, Coffs Harbour, Orange, Armidale, Nowra and Sydney, with a total of 1,311 people attending.

Resources developed included a short YouTube video "We want sport to keep kids safe", launched at the NSW Sports Awards, along with specific child safe sports pages on the Office of the Children's Guardian website and a Facebook page.

#### *Example: Local government agencies interagency groups*

Working in consultation with local government agencies the Office of the Children's Guardian helped councils establish Working With Children Check and child safe policies for their child-related services.

This involved staff participating in 23 specialised interagency meetings in Penrith, central Sydney, Randwick, Hornsby, Bankstown and Willoughby. A total of 397 council and community workers attended.

## Results

The Royal Commission into Institutional Responses to Child Sexual Abuse highlighted situations in which organisations would have benefited from continuing support and advice in minimising the risk of harm to children. In response, the Office of the Children's Guardian redeveloped the child safe workshops and seminars to engage with issues identified in the royal commission's case studies. This redevelopment also took into consideration evaluation data collected from past participants of the child safe training sessions.

The major change to the child safe training sessions is a shift in focus from instruction on developing child safe policies to open discussion on implementing these policies and practices in participants' day-to-day work with children. The new course focuses more on how to initiate behaviour change when back in the workplace and provides more opportunities for participants to discuss and share their tried and tested strategies.

To complement the new course, the training resources and associated online materials were redeveloped. This included a new training workbook that encourages cooperative learning and incorporates tools and templates to help organisations develop as child safe organisations.

The new approach has received strong, positive feedback with return participants reporting better learning opportunities and outcomes.

The resources have also received positive feedback: "Activity handbook great resource for templates / policies review" – Marrickville, April 2015. "Workbook was clear" – Greenacre April 2015. "Well spoken, clear hand book" – Wollongong, May 2015.

In 2014-15 we delivered 92 child safe workshops and seminars across NSW, including Sydney metropolitan and rural areas. A diverse range of sectors and industries were represented, with 1,978 people attending.



Forty-one of our sessions were half-day seminars and 51 were full-day workshops. A total of 31 were in regional NSW representing about 30% of all sessions.

In total, the Office of the Children's Guardian facilitated 205 educational programs including workshops, seminars, information sessions, interagency meetings, conference stalls and webinars. More than 790 organisations were represented with a total of 5,866 people attending.

**Table 2.1 Child safe programs – 1 July 2014 to 30 June 2015**

	Number of events	Number of attendees	Number of regional events	Number of Sydney metro events
Child safe workshops (full day)	51	973	17	34
Child safe seminars (half day)	41	1005	14	27
Child safe sports sessions (2hrs)	56	1311	25	31
Interagency meetings (1 hr)	23	397	0	23
WWCC information sessions	10	388	0	10
Webinars	5	82	N/A	N/A
Children's employment seminars	3	430	1	2
Child safe conference stalls	16	1280	0	16
<b>TOTAL</b>	<b>205</b>	<b>5866</b>	<b>57</b>	<b>143</b>

**Table 2.2 Child safe programs increase: 2013–2015 sessions**

	2013–14	2014–15	Increase
Child safe workshops (full day)	26	51	96%
Child safe seminars (half day)	39	41	5%
<b>TOTAL sessions</b>	<b>65</b>	<b>92</b>	<b>42%</b>
<b>TOTAL attendees</b>	<b>1486</b>	<b>1978</b>	<b>33%</b>
<b>TOTAL organisations</b>	<b>569</b>	<b>790</b>	<b>39%</b>

### Community events, conferences and forums

In addition to a targeted education program and membership on interagency groups, the Office of the Children's Guardian has attended a number of community events conferences and forums to provide information and answer questions.

- Mana Allawah Family and Community Services Aboriginal Summit 2014
- National Aboriginal and Torres Strait Islander Children's Day
- Multicultural EID Festival and Fair, Fairfield
- Multicultural Youth Advocacy Network NSW Interagency
- Association of Children's Welfare Agencies conference
- Multicultural NSW (formerly, Community Relations Commission) Annual Symposium
- Inner West Youth Alliance Meeting
- Local Community Services Association conference.

### **Work with other states**

In February 2015, NSW Office of the Children's Guardian was invited to participate at the Western Australian Department of Education Services – Independent Reviewer Symposium held in Perth.

The Department of Education Services is the regulator of non-government schools and registered training organisations in Western Australia and administers the Teacher Registration Board of Western Australia.

The Symposium was attended by government and non-government sector assessors who work with educational institutions to maintain standards to help keep children safe.

In March 2014, the Tasmanian Commissioner for Children invited the Office of the Children's Guardian to deliver two keynote speeches in Hobart and Launceston at a forum - Strengthening Child-safe, Child-friendly Organisations in Tasmania. The Office of the Children's Guardian shared its experience in introducing the new legislation that underpins the NSW Working With Children Check, along with its development of community education strategies for creating child safe organisations.

### ***Plans for the future***

In 2015–16 the Office of the Children's Guardian will take its child safe education program to north-west NSW, including sessions in Bourke, Brewarrina and Walgett. This is being arranged in consultation with local Aboriginal elders and community organisations.

The royal commission has generated greater interest in keeping children safe in an organisational context, with an increased demand for child safe training and resources. The Office of the Children's Guardian plans to develop a child safe eLearning package that will provide individuals with child safe training accessible at a time and place convenient to them.

A suite of community language resources about the Working With Children Check is also in development.

### Local community support

The Office of the Children's Guardian acknowledges the generous support of the NSW community during 2014-15. With finite resources available within the Office of the Children's Guardian, the constant challenge is to deliver an effective child safe program across the state. However the support of local councils, non-government and government agencies has resulted in the delivery of the program to a wider audience across more communities in NSW.

The following organisations provided the Office of the Children's Guardian with a venue free of charge.

- Bankstown Sports Club
- Bathurst Child and Family Network
- Broken Hill City Council
- Central West Family Support Group – Condobolin
- Goulburn Regional Conservatorium
- Kempsey Shire Council
- Ku-ring-gai Council
- Lane Cove Council
- Parramatta City Council
- Penrith City Council
- Port Stephen Children Services
- Settlement Services International
- Shellharbour City Council
- Sport and Recreation – sessions held at:
  - Armidale
  - Albury
  - Central Coast
  - Batemans Bay
  - Bathurst
  - Dubbo
  - Griffith
  - Lismore
  - Newcastle
  - Orange
  - Tamworth
  - Wagga Wagga
  - Wollongong.
- Sutherland Shire Council
- Western Sydney Institute of TAFE – Nirimba College.

## ***Statutory out-of-home-care***

### ***Background***

The Children's Guardian accredits agencies to provide statutory out-of-home care services in NSW. Accredited agencies are known as 'designated agencies'. To be accredited, an agency must demonstrate compliance against the NSW Standards for Statutory Out-of-Home Care.

The Office of the Children's Guardian engages with designated agencies to help them meet their statutory obligations and provide child safe services. More information on the Office of the Children's Guardian's work in statutory out-of-home care can be found in section 2.2.

### ***Results***

Accreditation staff conducted 156 visits to agencies during 2014-15. These visits were for accreditation renewal assessments, assessment of new designated agencies providing their first out-of-home care placements, other scheduled visits and visits to monitor an agency's performance against a risk management program or an accreditation action plan.

During 2014-15, the Office of the Children's Guardian participated in two, three-day workshops with members of Aboriginal Child, Family and Community Care State Secretariat, the Association of Children's Welfare Agencies, and Family and Community Services. The workshops were funded by Family and Community Services and brought together a range of key stakeholders from across the sector working with representatives from Aboriginal out-of-home care agencies.

The NSW Carers Register was launched in June 2015. Its development was supported by strong stakeholder consultations and a comprehensive training program. The Office of the Children's Guardian provided a series of information sessions in September and October 2014 for designated agency managers, carer recruitment and quality assurance staff. Information sessions were also provided to the Aboriginal Child, Family and Community Care State Secretariat, the Association of Children's Welfare Agencies and Community Services in six locations throughout the state.

During April and May 2015, two-day intensive training workshops were provided for designated agency staff responsible for creating and maintaining Carers Register records for their agency. More details on the Carers Register and associated training are provided in section 2.2.

Consultations relating to the development of standards for statutory out-of-home care and adoption are outlined in section 2.2.

## ***Voluntary out-of-home care***

### ***Background***

Voluntary out-of-home care is arranged between a parent and an organisation when there are no child protection concerns. It refers to situations where a parent of a child or young person (under the age of 18 years) makes a voluntary arrangement with an organisation for the placement of their child or young person in out-of-home care for one or more nights. More information on voluntary-out-of-home care can be found in section 2.3.

### ***Results***

In 2014-15, 2,115 children and young people accessed voluntary out-of-home care. Most, 1,942 (92%), were recorded as having a disability.

The Office of the Children's Guardian publishes a public register detailing all agencies providing or arranging voluntary out-of-home care in NSW on its website: [kidsguardian.nsw.gov.au](http://kidsguardian.nsw.gov.au). The public register promotes interagency collaboration and raises awareness of services available in each geographical area of NSW.

## ***Children's employment***

### ***Background***

As part of the review of the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010, the Office of the Children's Guardian consulted extensively with stakeholders including children and young people, parents, employers and casting agents. An issues paper, *Children's Employment in entertainment, exhibition, still photography and door-to-door sales*, was published on the NSW Government's consultation portal, [haveyoursay.nsw.gov.au](http://haveyoursay.nsw.gov.au).

The Office of the Children's Guardian also engages with stakeholders to promote child safe practices where children are employed.

More information on children's employment can be found in section 2.4.

### ***Results***

The Office of the Children's Guardian held a forum, ActSafe, on 4 August 2014 on children working in entertainment, with more than 200 representatives from production companies, talent agents, casting agents and other relevant stakeholders. The forum focused on making a child safe environment where a child is employed, the current compliance requirements for employers and the review of the children's employment regulation. Speakers included Kerry Boland, the Children's Guardian; Scott Howard, Commercial Director of Shine Australia; and a child actor, Kai Baldwin. A short video, *Keeping Sally Safe on Set*, was released on YouTube to coincide with the forum.

In 2014–15 the children's employment team completed the following stakeholder education and engagement activities:

- Met with 31 stakeholders to improve awareness of children's employment legislation within targeted industries such as talent agents and fashion modelling. As a result, six new employers obtained an authority to employ children in NSW via referrals from performer representatives.
- Continued to update our online register of authorised employers to assist performer representatives, parents and other stakeholders in making sure that children are employed by authorised employers.
- Implemented the children's employment communications plan including:
  - development of fact sheets
  - release of issues paper on the government's Have your say web portal in relation to the review of the 2010 children's employment regulation initial consultations
  - conducting a survey for children and young people, with more than 40 respondents
  - distribution a fortnightly e-bulletin to more than 900 subscribers focusing on compliance and good practices.
- Improved children's employment content on the [kidsguardian.nsw.gov.au](http://kidsguardian.nsw.gov.au) website.
- Developed a children's employment brochure targeting dance schools, as they can often supply children for employment in entertainment productions
- Included information about creating child safe organisations during information sessions with employers and phone enquiries.
- Included information about working with children requirements when discussing productions with employers.
- Conducted two regional information seminars for employers, talent agents and other interested stakeholders.
- Presented children's employment information within the child safe presentations
- Developed industry specific forums to increase awareness of the child employment legislation targeting emerging filmmakers from tertiary institutions, talent agents and performance schools in the Wollongong and Byron Bay areas.
- Presented at external industry events such as the Association of Community Theatre conference and Metroscreen professional development forum
- Developed a risk-based compliance model for children's employment.

### ***Plans for the future***

We will continue developing and distributing communication tools and resources to support employers and other stakeholders and improve their compliance and awareness about the code of practice.

The risk-based compliance model for children's employment will be implemented.

## ***Working With Children Check***

### ***Background***

People who work with children have a legal responsibility to hold a Working With Children Check. The *Child Protection (Working with Children) Act 2012* and the Child Protection (Working with Children) Regulation 2013 provide the legislative framework by which employers and workers in child-related work must comply.

Each year the Office of the Children's Guardian develops a compliance program. Details of the program can be found in section 2.5.

The Office of the Children's Guardian engages with stakeholders in delivering the Working With Children Check, providing telephone customer service support and online resources.

### ***Results***

During 2014-15, the Office of the Children's Guardian circulated an online survey to users of the Working With Children Check. The survey was distributed to almost 15,000 users and received more than 2,000 responses.

The survey revealed strong user acceptance of the online system with 87% saying the system was easy to use, 86% that the information provided online told them what they needed to know, and 83% that they received their results promptly.

Details of clearances and processing times for the Working With Children Check are provided in Chapter 3.

## 2.2 Regulatory scheme for out-of-home care and adoption

The principal functions of the Children's Guardian include promoting the best interests of children and young people in out-of-home care and ensuring their rights are safeguarded and promoted. The Office of the Children's Guardian has a multilayered, integrated approach to protecting and promoting the rights of children and young people through the regulation of statutory out-of-home care in NSW.

An accreditation and monitoring scheme ensures that out-of-home care is arranged by agencies that meet the child-focused NSW Standards for Out-of-Home Care. Agencies must be accredited and are monitored by the Office of the Children's Guardian to ensure ongoing compliance with the standards.

In 2014–15, the regulatory scheme benefited from the implementation of the new Carer's Register. This provides another layer of protection for children and young people in out-of-home care by ensuring children are cared for by appropriate carers and that agencies have undertaken thorough assessment of carers.

These functions are complemented by the Working With Children Check and child safe organisations programs which provide additional resources to assist agencies in protecting children and young people in out-of-home care.

There are three types of out-of-home care in NSW.

- **Statutory out-of-home care** is provided to a child or young person as a result of a court order (most commonly an order of the Children's Court allocating parental responsibility to the Minister for Family and Community Services) or care that is provided to a child or young person where the minister or Secretary of the Department of Family and Community Services has parental responsibility (for example a child awaiting adoption). Statutory out-of-home care includes foster care, statutory relative/kinship care and residential care.
- **Supported out-of-home care** is arranged or supported by the secretary after forming the view that the child or young person is in need of care and protection. For example, the Department of Family and Community Services may provide a carer allowance to support a child or young person who may otherwise come into the care system. Supported care is not necessarily court-ordered care and these arrangements tend to be more informal in nature. Supported care arrangements are most commonly provided by the child or young person's relatives or kin and may not be supervised to the same extent as statutory out-of-home care arrangements.
- **Voluntary out-of-home care** is arranged by the parent of the child or young person. These arrangements are most commonly used to provide care to children and young people with disabilities or complex care needs.

### ***Statutory out-of-home care***

NSW introduced a compulsory accreditation scheme for statutory out-of-home care providers in July 2003. The accreditation scheme is the principal means by which the Children's Guardian exercises her functions relating to children and young people in out-of-home care.

The accreditation and monitoring program is a compliance scheme that authorises agencies to provide statutory out-of-home care. Agencies are accredited only when they can demonstrate through their policies, guidelines and casework practices that they can meet the minimum standards for out-of-home care. The NSW Standards for Statutory Out-of-Home Care are approved by the minister on the recommendation of the Children's Guardian, and the accreditation criteria under the *Children and Young Persons (Care and Protection) Act 1998* requires all agencies providing statutory out-of-home care, both government and non-government, to wholly or substantially satisfy these standards.

Agencies accredited to provide statutory out-of-home care services are referred to as 'designated agencies'. The accreditation and monitoring scheme applying to designated agencies consists of a number of programs that are used to assess and monitor an agency's policies, procedures and practices throughout the accreditation life span of the agency.

The programs involve rolling assessments of agency's systems and casework practice through intensive assessment of children and carer files, human resource records, and meetings with governing boards and frontline staff.

Agencies may be accredited for one, three or five years. Following accreditation, the Office of the Children's Guardian monitors the performance of designated agencies throughout the period of accreditation and in accordance with conditions of accreditation.

Designated agencies, including their conditions of accreditation and accreditation expiry date, are listed on the Office of the Children's Guardian website.

### ***The NSW standards for out-of-home care***

Approved in 2013, the NSW Standards for Statutory Out-of-Home Care provide the minimum standards for agencies delivering statutory out-of-home care services in NSW. The standards are available from the statutory out-of-home care page of the Office of the Children's Guardian website. In 2009, the standards were revised to more closely align with the NSW Charter of Rights for Children and Young People in Out-of-Home Care and the United Nations' Convention on the Rights of the Child.

The standards are provided under four sections:

- Children and young people
- Casework practice
- Management of authorised carers and staff
- Organisational management.

The standards are centred on children and young people and are consistent with the global move towards child-centred policy making. The standards are informed by the relevant legislation and evidence-based research.

### ***Child protection reforms and review of the NSW standards for statutory out-of-home care***

The NSW government introduced a suite of child protection reforms, A Safe Home for Life, in October 2014, including the implementation of a permanent placement hierarchy in the *Children and Young Persons (Care and Protection) Act 1998*. The hierarchy requires that restoration to parents, guardianship to a relative or kin or adoption is considered before a child is placed under the parental responsibility of the minister. Application of the permanent placement principles should see a significant reduction in the number of children and young people entering the statutory out-of-home care system and a greater number of children and young people exiting the system through restoration, guardianship or adoption.

To support the child protection reforms, the Office of the Children's Guardian has merged the NSW standards for statutory out-of-home care and the NSW adoption standards and aligned the out-of-home care and adoption accreditation schemes. This provides for a single, streamlined accreditation process for out-of-home care providers who also wish to provide adoption services.

While child safe concepts already underpin the statutory out-of-home care and adoption standards, the merged standards will more explicitly incorporate child safe principles into accreditation criteria.

The revised standards were open for consultation during 2015 and have been piloted with a designated agency, Barnardos. The Office of the Children's Guardian will recommend final standards to the minister in the 2015-16.

### ***Types of accreditation***

There are three types of accreditation:

- **Provisional accreditation** is based on assessment of indirect evidence only and is applicable to applicants that have not made placements of children and young people in statutory out-of-home care during the 12 months prior to the application. Provisional accreditation is for three years.
- **Full accreditation** is based on assessment of both indirect and direct evidence and is applicable to agencies seeking to renew their accreditation. Full accreditation is available only to applicants that can show current



evidence relating to placements of children and young people in statutory out-of-home care. Full accreditation can be for one, three or five years.

- **Interim accreditation** is a separate category of accreditation under the Children and Young Persons (Savings and Transitional) Regulation 2000 which allows an agency to continue arranging out-of-home care without having demonstrated that it wholly or substantially satisfies the NSW standards. Family and Community Services has had interim accreditation since July 2003.

### ***Accreditation in 2014-15***

At 30 June 2015, there were 81 designated agencies accredited to arrange or provide statutory out-of-home care services in NSW.

- Interim accreditation: Family and Community Services (Community Services)
- Provisional accreditation: 19 agencies
- Full accreditation for three years: nine agencies
- Full accreditation for five years: 52 agencies.

The Children's Guardian accredited 14 agencies in the year 2014-15, including 13 renewals (full accreditation) and one new agency (provisional accreditation).

### ***Provisional accreditation and programs to meet accreditation criteria***

A specialist Aboriginal agency was provisionally accredited for three years during 2014-15 and is awaiting its first placement.

Conditions of accreditation for all provisionally accredited agencies include a requirement that the agency notifies the Children's Guardian when it makes arrangements for its first placement of a child or young person in statutory out-of-home care. When this occurs, the agency is required to participate in a program to meet accreditation criteria. This program involves progressive onsite assessments of the agency's practice (direct evidence). Progressive onsite assessments of direct evidence for most agencies take place over two days, every four months, over a three-year period. The agency must demonstrate that its practice is compliant with the standards and that it has systems to ensure that practice is consistent over time and across all programs and sites.

During 2014-15, 13 provisionally accredited agencies participated in programs to meet accreditation criteria. The remaining six provisionally accredited agencies did not have placements of children and young people during this period.

### ***Full accreditation and accreditation renewal***

Eight designated agencies, already fully accredited for five years, had their accreditation renewed during 2014-15. In addition to these, accreditation was renewed for five agencies, progressing from provisional to full three-year accreditation.

Of the 61 agencies that were fully accredited for three or five years, seven agencies have extended their accreditation from provision of residential care to include foster care services. As such, they also participated in a direct evidence program (foster care) similar to that for provisionally accredited agencies.

Assessment of direct evidence includes consistent practice, sustained over time and throughout service locations. In 2014-15, following accreditation renewal, three agencies continue to participate in a direct evidence program due to small numbers of placements (limited opportunities to demonstrate practice against all assessment criteria) or due to continued rapid and large growth in placements in many locations.

### ***Accreditation deferrals***

Under Clause 47 of the Children and Young Person's (Care and Protection) Regulation 2012, the Children's Guardian can defer a decision on an agency's application for accreditation renewal. During 2014-15, the Children's Guardian deferred a decision on the applications of six designated agencies that had full accreditation for five or three years. These agencies had not demonstrated in direct evidence (practice) minimum compliance with accreditation criteria before their accreditation expiry date.

A decision by the Children's Guardian to defer accreditation is a serious matter. It indicates an agency has been unable to sustain practices that promote the best interest of the children and young people in the care of the agency.

Agencies are allowed to continue providing statutory out-of-home care services while a decision to renew accreditation is deferred. However, the agency is closely monitored by the Office of the Children's Guardian to ensure a commitment to remedial action and the implementation of an action plan that addresses the identified gaps in practice. Under the Regulation, the Children's Guardian must inform the minister if a decision is deferred for six months or more. During 2014-15, the Children's Guardian informed the minister of four agencies in this category.

A deferral of an accreditation decision requires the Office of the Children's Guardian to divert additional resources into monitoring the deferred agency's progress against the action plan and requires a further renewal assessment within an appropriate time frame.

### ***Accreditation and the Department of Family and Community Services***

The Department Family and Community Services has interim accreditation and is the only out-of-home care provider accredited under the Children and Young Persons (Savings and Transitional) Regulation 2000. The department has held interim accreditation since 2003. A program to meet accreditation criteria began in 2013 focusing on 16 community service centres within each Family and Community Services district. The Office of the Children's Guardian has monitored the department's progress under this program and provided extensive feedback on progress since 2013.

During 2013–14, seven separate units achieved full accreditation for five years. However the Office of the Children's Guardian's staged assessments of the 16 community service centres indicated only five were progressing sufficiently towards meeting the accreditation criteria.

Interim accreditation under the transitional regulation was to expire on 31 July 2015 unless extended by the Children's Guardian. In March 2015, the department sought a 12-month extension to their interim accreditation to allow it to implement its out-of-home care accreditation service delivery plan. The department advised there were factors that have adversely affected its progress towards accreditation including the resource-intensive nature of the transfer of case management to the non-government sector and the higher-than-expected number of children and young people remaining in government care.

In 2016–17, the Office of the Children's Guardian will monitor the progress of the Department of Family and Community Services against its service delivery plan to inform the accreditation decision.

### ***Out-of-home compliance monitoring program***

The transfer of placements of children and young people in statutory out-of-home care from the Department of Family and Community Services to the non-government sector has brought challenges for agencies, especially new agencies and agencies experiencing rapid growth. These agencies have been closely monitored by the Office of the Children's Guardian through the early stages of the transition. During 2014-15 this monitoring was extended to other accredited agencies, beginning in November 2014 with agencies providing residential care for children under 12 years of age.

The compliance monitoring program includes an audit of children's files and an assessment of the systems for management and governance of the agency. The assessments differ from the previous case file audit program and include a broader review of records as well as discussions with relevant staff. The assessments consider outcomes for children and young people in a range of care domains. The assessment also includes a review of carer and staff files to confirm compliance with Working With Children Check and carer authorisation processes.

Preliminary results from the compliance monitoring assessments conducted to date indicate that most children and young people placed with non-government agencies have current case plans relevant to their particular circumstances. While most agencies have systems in place to monitor placements and follow through on case planning tasks, some were unable to provide evidence of their systems being implemented. In addition, many agencies were still establishing systems for providing information to birth families and for including children and young people in decision-making processes. In most cases agencies were compliant with the Working With Children Check requirements.

Each agency receives an assessment report and a copy of the audit results for each file audited. In cases where assessment indicates a gap in an agency's systems and processes, agencies are required to develop action plans to achieve and maintain compliance with standards.

The compliance monitoring program will continue into the coming year and will include a visit to all designated agencies providing statutory out-of-home care including the Department of Family and Community Services.

### ***Capacity building in Aboriginal agencies***

There are 12 accredited specialist Aboriginal out-of-home care agencies, with seven fully accredited. Aboriginal children and young people are over-represented in the statutory out-of-home care system. The Department of Family and Community Services and the Office of the Children's Guardian continue to work cooperatively to build the capacity and assist in the accreditation of specialist Aboriginal services.

During 2014-15, the Office of the Children's Guardian participated in two, three-day workshops with members of Aboriginal Child, Family and Community Care State Secretariat, the Association of Children's Welfare Agencies, and the Department of Family and Community Services.

The workshops were funded by the department and brought together a range of key stakeholders from across the sector working with representatives from Aboriginal out-of-home care agencies. The initial objective was to identify ways to build and strengthen the Aboriginal out-of-home care sector. The workshops developed a range of priorities and initiatives aimed at addressing the over representation of Aboriginal children and young people in out-of-home care. Priorities in these sessions were:

- Aboriginal policy by Aboriginal people
- keeping kids connected
- strengthening Aboriginal out-of-home care organisations
- growing sector capacity
- community/family decision-making.

The focus of the workshops was to design new models of practice to strengthen the current out-of-home care sector while recognising the need to understand how best to strengthen families and communities to keep children and young people out of the care system.

Proposals from the workshops were presented to the Secretary of the Department of Family and Community Services.

### ***Adoption***

The Children's Guardian accredits and monitors non-government adoption service providers and monitors the adoption services of the Department of Family and Community Services, under the *Adoption Act 2000* and the *Adoption Regulation 2003*.

Three of the 81 designated agencies accredited to provide or arrange statutory out-of-home care services in NSW are also accredited to provide domestic adoption services in NSW. These are:

- Anglicare Sydney
- Barnardos
- CatholicCare (Sydney).

During 2014-15, the Office of the Children's Guardian provisionally accredited Australian Families for Children Incorporated to provide both domestic and intercountry adoption services. Similar to statutory out-of-home care, provisional accreditation to provide adoption services is for a three-year period. It includes conditions of accreditation that require the agency to notify the Children's Guardian when its services begin, and provide direct evidence of practice in accordance with a program to meet accreditation criteria.

Agencies accredited to provide adoption services in NSW, including their *Conditions of accreditation* and accreditation expiry date, are listed on the Office of the Children's Guardian's website.

## NSW Carers Register

### ***Establishment***

In 2013, the *Children and Young Persons (Care and Protection) Act 1998* was amended to empower the Children's Guardian to establish a register of people authorised as carers for statutory out-of-home care.

A secure, online register would allow the Office of the Children's Guardian to enable agencies in statutory out-of-home care to share information about existing and prospective carers. This cross-checking process would mean that carers or household members cannot move from agency to agency without their records also being transferred, preventing unsuitable carers from moving between agencies.

The register would also bring together, in a single view, compliance and monitoring of requirements under the NSW standards for out-of-home care and the Working With Children Check.

The NSW Carers Register was launched on 15 June 2015 as a licensing tool to ensure that people caring for children in statutory out-of-home care have been through a detailed probity assessment process. It was developed by the Office of the Children's Guardian and NSW Government Licensing Service.

Under the new system, which is administered by the Office of the Children's Guardian, agencies can access information regarding:

- its own carers and their household members
- carers who apply to the agency for authorisation as a carer
- anyone who becomes a household member of an agency carer.

Individuals can also access their own information in the register and request any corrections through the Office of the Children's Guardian. The register will also ensure that carers and adult household members in a fostering family have undergone the necessary checks, including the Working With Children Check.

Information about the suitability of carer applicants and household members of the applicant is shared under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*. Improved information sharing is essential as the transition of placements to the non-government sector proceeds.

Designated agencies authorise people to carry out that care according to their suitability for the role, with information about household members also taken into account. The transfer of carers to an increased number of non-government organisations poses challenges for designated agencies in assessing and authorising carers.

The NSW Carers Register records the outcomes of carer and household member checks and assessments and does not permit a carer to be fully authorised until the designated agency certifies that all required checks and assessments have been satisfactorily completed. The register also contains details of Working With Children Check applications and clearances for carers and adult household members and will alert agencies in advance of Working With Children Checks needing to be applied for or renewed.

### ***Sector information and training sessions***

Before the Carers Register launch, the Office of the Children's Guardian gave a series of information sessions for designated agency managers, carer recruitment and quality assurance staff in September and October 2014. Information sessions were also provided to the Aboriginal Child Family and Community Care Secretariat, the Association of Children's Welfare Agencies and Community Services in six locations throughout the state.

During April and May 2015, two-day intensive training workshops were provided for designated agency staff responsible for creating and maintaining Carers Register records for their agency. Training included registering the agency to access the register; nominating an agency systems administrator to create additional agency users; and general data requirements, system design and functionality. Supporting resources including fact sheets, guides and manuals were given to participants and also made available on the Office of the Children's Guardian website.

### **Commencement**

The Carers Register began operating on 15 June 2015. Agencies must enter back capture data for carers who were authorised before 15 June 2015 and any subsequent applications or changes to authorisations as these occur. The Carers Register holds a minimum level of personal information necessary to support identity confirmation, carer suitability and information sharing, with detailed information to be exchanged under Chapter 16A. A designated agency has access only to information in the register about its own carers and household members, but will be able to access the Carers Register history of a person if that person applies to the agency for authorisation or becomes a household member of an agency carer.

The Office of the Children's Guardian has worked closely with Community Services to make sure that the regulatory framework supports the ongoing provision of out-of-home care services for children and young people.

#### **An integrated approach to the protection of children**

Through integration of various child protection functions into a single agency, the Office of the Children's Guardian has been able to further enhance its approach to the protection of children.

Consolidating responsibility for the Working With Children Check, the NSW Carers Register and Out-of-home care Accreditation allows more information to be captured and shared to identify potential risks and generate appropriate responses to manage those risks.

The Office of the Children's Guardian delivers a range of educational and proactive strategies like the Child Safe Training and resource program giving employers access to practical resources and advice on delivering child-friendly services within their organisations.

This approach is complemented by the Office of the Children's Guardian's monitoring and enforcement functions that facilitate oversight of employers' responsibilities and, where required, enforcement action to keep children safe.

### **Results**

The Office of the Children's Guardian assessed and monitored 81 designated agencies during 2014-15. Of these, 13 provisionally accredited agencies were monitored on direct evidence programs after commencing their first statutory out-of-home care placements.

Accreditation staff conducted 156 visits to agencies during 2014-15. These visits were for accreditation renewal assessments, assessment of new designated agencies providing their first out-of-home care placements, other scheduled visits and visits to monitor an agency's performance against a risk management program or an accreditation action plan.

Since operations began on 15 June 2015, more than half of all eligible designated agencies had begun entering data onto the Carers Register by 31 June 2015, creating records for more than 6,590 carer households and 13,800 authorised carers and household members.

New merged standards for adoption and statutory out-of-home care were drafted in consultation with the sector and piloted during 2014-15 and will become effective by the end of 2015.

### **Plans for 2015–16**

During 2015-16, 26 agencies will be due for accreditation renewal. In addition to these, assessment will continue for five agencies based on the Children's Guardian decision to defer determining the application for accreditation renewal.

The Office of the Children's Guardian will continue to focus on monitoring designated agencies, including a performance assessment of each agency. For agencies also due for accreditation renewal, a monitoring assessment which includes an audit of child and carer files, and an assessment of the effectiveness of systems for the

management of the agency, will help agencies prepare for the accreditation process. The monitoring framework for designated agencies will be extended to include measures for carers register compliance.

Agencies must complete all back capture data entry in the Carers Register by 15 September 2015. The Office of the Children's Guardian will monitor agencies compliance with this deadline.

By late 2015, the merged standards for statutory out-of-home care and adoption services will be launched and will apply across the sector. The new standards will encourage early decisions on permanency for children and young people and will streamline the path from statutory out-of-home care to adoption. Designated agencies will have the choice to be accredited for the provision of adoption services along with their statutory out-of-home care accreditation.

Challenges ahead include:

- increased number of agencies due for accreditation renewal in 2015-16
- effective monitoring of new and rapidly expanding agencies
- additional assessments required for some agencies that fail to demonstrate compliance during accreditation renewal assessment
- effective monitoring of Family and Community Services (Community Services) as it progresses towards accreditation of all its units
- full implementation of the NSW Carers Register as designated agencies complete all back-capture data entry and any subsequent applications or changes to authorisations, as these occur.

## 2.3 Voluntary out-of-home care

Voluntary out-of-home care is arranged between a parent and an organisation when there are no child protection concerns. It refers to situations where a parent of a child or young person (under the age of 18 years) makes a voluntary arrangement with an organisation for the placement of their child or young person in out-of-home care for one or more nights. The arrangements can take many forms, including out-of-home respite with a host family or in a care centre, or longer-term residential arrangements.

Many children and young people in voluntary out-of-home care have a disability. The voluntary out-of-home care regulatory framework complements and builds on existing arrangements for children and young people and their families.

### **Background**

#### **Legislation**

Legislation for voluntary out-of-home care was one of the many reforms introduced as part of Keep Them Safe following the Special Commission of Inquiry into Child Protection Services in NSW regarding the need to ensure consistency of voluntary out-of-home care.

The voluntary out-of-home care provisions in the *Children and Young Persons (Care and Protection) Act 1998* and the *Children and Young Persons (Care and Protection) Regulation 2012* commenced on 24 January 2010 and is the first legislation of its kind in Australia.

The legislation applies to all organisations that provide or arrange voluntary out-of-home care in NSW, irrespective of who funds those arrangements (whether private or state, federal or local government). This includes government and non-government organisations such as corporations, associations or family partnerships.

The system requires that all care is to be provided or arranged by a designated agency or an organisation registered by the Children's Guardian to provide or arrange care.

#### **Policy objectives**

The policy objectives underpinning the voluntary out-of-home care system are to:

- ensure those in longer term care benefit from proper case planning
- promote parents having access to relevant information and participating in planning care and decision making
- improve the consistency and quality of intake, assessment, planning care and inter-agency coordination arrangements
- enhance sector knowledge of a child or young person's care history and previous case plans, supporting improved planning of care, information sharing and inter-agency coordination.

The legislation requires that a child or young person must not remain in voluntary out-of-home care for more than 90 days in any 12-month period, unless that care is provided or supervised by a designated agency. It also requires that a child or young person must not remain in care for more than 180 days in a 12-month period, unless they have a case plan developed or approved by a designated agency. A designated agency is an organisation that has been accredited by the Children's Guardian to provide statutory or supported out-of-home care to children and young people.

#### **Regulatory role**

The regulatory role of the Children's Guardian includes:

- formulating and maintaining the statutory procedures for voluntary out-of-home care in NSW to guide agencies in the areas of intake, assessment, case planning and interagency coordination
- administering the monitoring framework involving a registration and self-certification checklist, analysis of voluntary out-of-home care register data, a monitoring visit program and ongoing monitoring processes



- monitoring whether children and young people in longer term voluntary out-of-home care receive care that is appropriately supervised and planned.

By establishing a common intake and assessment, supervision, case planning and interagency coordination framework the statutory procedures for voluntary out-of-home care will:

- reduce the risk of children and young people drifting in the voluntary out-of-home care system without appropriate planning and care
- promote improved quality, consistency, efficiency and coordination in the delivery of voluntary out-of-home care services.

### ***The voluntary out-of-home care register***

The Office of the Children's Guardian contracts the NSW Government Licensing Service to maintain and host the online voluntary out-of-home care register, operational since 7 February 2011.

The register is a secure online database that:

- records each child's full name and any previous name, date of birth, gender, Aboriginal and Torres Strait Islander status and disability status
- calculates a child's placements across all agencies providing voluntary out-of-home care into a summarised placement history, including any case plans or supervision arrangements.

Each time an agency provides a placement, it must enter the placement onto the register within five working days to ensure that each child's placement history is current. This information is essential for an agency to deliver care that is both appropriate and consistent.

Agencies providing or arranging care should review the child or young person's placement history to find out if a child is also receiving care from another voluntary out-of-home care agency, if a supervision arrangement is in place or if a child has a case plan. The placement history records should inform agency collaboration to share relevant information to help meet the child's needs.

The register holds the minimum level of personal information necessary to monitor the care provided to children and young people.

### ***Access to the voluntary out-of-home care register***

Access to the register is restricted to staff at the Office of the Children's Guardian and authorised staff from registered voluntary out-of-home care agencies. In limited circumstances access may be granted to other government officers.

Agencies are 'prescribed bodies' under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*. This means they are legally entitled to share information relevant to a child or young person's safety, welfare or wellbeing with other prescribed bodies (i.e. organisations with direct responsibilities for child health, welfare, education or care, culture support or law enforcement).

Prescribed bodies may exchange information to:

- make a decision or undertake an assessment or plan
- provide a service
- manage any risk to a child or young person
- initiate or conduct an investigation.

The safety, welfare and wellbeing of the child or young person takes precedence over the protection of an individual's privacy concerns, therefore information may be exchanged without parental consent.



### ***The public register***

The Office of the Children's Guardian has developed a public register detailing all agencies providing or arranging voluntary out-of-home care in NSW. The public register promotes interagency collaboration and awareness of services available in each geographical area.

Further information can be found on our website [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au).

### ***Monitoring framework***

The Office of the Children's Guardian monitors agency responsibilities detailed by the legislation.

The monitoring framework includes:

- **the registration and self-certification checklist** – a declaration of compliance of an agency's practice against the voluntary out-of-home care procedures
- **register activity reports** – voluntary out-of-home care register activity for each agency
- **onsite monitoring visits** – an onsite assessment of an agency's compliance with the procedure
- **continuous monitoring mechanisms** – Office of the Children's Guardian desk-based assessment.

All agencies are required to adhere to the framework to maintain their registration or accreditation to provide or arrange voluntary out-of-home care.

### ***Results***

#### ***Agencies authorised to provide or arrange voluntary out-of-home care***

All agencies that plan to provide or arrange voluntary out-of-home care are required to complete the self-certification checklist to confirm their registration and compliance with the procedures before providing or arranging care.

If an agency has recorded 'partially compliant' in any area of the checklist, it is required to complete an action plan detailing how and when it plans to achieve compliance. Agencies that submit a partially compliant checklist must resubmit the checklist to advise when compliance has been achieved and to ensure its registration is maintained.

In 2014-15, there were 162 agencies authorised to provide or arrange voluntary out-of-home care: 39 designated agencies and 123 registered agencies. Twelve of the 162 agencies are registered to arrange voluntary out-of-home care only (the agencies do not provide the care).

A number of designated agencies had previously advised that the capacity to provide voluntary out-of-home care had reduced due to the transition of children and young people from Community Services to the non-government sector. This trend continues into the 2014-15 period.

#### ***Children and young people accessing voluntary out-of-home care***

In 2014-15, 2115 children and young people accessed voluntary out-of-home care. Most, 1942 (92%), were recorded as having a disability. As shown in Table 2.2, many accessed care in more than one quarter during the 12-month period.

#### ***Placement summary***

- 1100 children and young people accessed placements with registered agencies
- 860 children and young people accessed placements with Family and Community Services, Ageing, Disability and Home Care (ADHC)
- 412 children and young people accessed placements with designated agencies other than ADHC.

In 2014-15, the voluntary out-of-home care register recorded 18,454 placement episodes: 8542 were with ADHC; 2544 were with other designated agencies; and 7367 were with registered agencies.

Of the 18,454 placements episodes, 17,782 were provided to children or young people with a disability. Of the 56,991 placement days recorded, 28,461 were recorded by ADHC; 9,812 by other designated agencies; and 18,716 by registered agencies.

### ***Supervision notifications for children and young people in voluntary out-of-home care for 90 or more days***

Placements are required to be supervised by a designated agency when a child or young person spends 90 or more days in care in any 12-month period, if that care is provided by a registered voluntary out-of-home care agency.

A registered agency can arrange for a non-government designated agency to provide placement supervision. ADHC will provide supervision, at no cost, for children and young people subject to the *Disability Services Act 1993*. The Office of the Children's Guardian will provide supervision, at no cost, for other children and young people.

During 2014-15, 100 children and young people's placements with registered agencies required supervision. Of these, 95 were supervised by ADHC and five were supervised by other designated agencies.

### ***Case plan notifications for children and young people in voluntary out-of-home care for 180 or more days***

A case plan must be prepared or approved by a designated agency for children and young people who have been in care for 180 or more days in any 12-month period. If the care is provided by a registered agency, it is the supervising designated agency's responsibility to supervise the development of the case plan.

During 2014-15, 78 children and young people required case plans. Of these, 36 case plan notifications were submitted by ADHC and 42 were submitted by other designated agencies.

### ***Register activity reports***

Register activity reports form part of the monitoring framework, and changes in activity patterns are used to inform monitoring visits. Agencies also use the activity report as a self-monitoring and planning tool to ensure compliance is achieved and maintained. Agencies that recorded no placements on the register during a quarter are required to confirm with the Office of the Children's Guardian that they did not provide any placements during that period.

Each agency received four register activity reports during 2014-15. The reports detail activity per agency, including:

- number of children recorded
- number of placements
- number of placements supervised
- number of case plans
- placement information that was entered outside of the required timeframe.

### ***Onsite monitoring visits***

Monitoring visits form a significant part of the monitoring framework. The visits draw on:

- agency practices and compliance with procedure
- agency undertakings agreed to by signing the self-certification checklist
- checklist and action plan agreed on by both the agency and the Children's Guardian
- register activity reports
- action taken by agencies in response to email alerts and reports from the Office of the Children's Guardian.

Due to the development and implementation of the Carers Register during 2014-15, voluntary out-of-home care monitoring was conducted by desk assessments. Monitoring visits will resume for each agency in 2016.

**Figure 2.1 Department of Family and Community Services local districts****Table 2.3 NSW districts and number of services**

Region	Local Government Area	Designated agencies	Registered agencies	Arranging only agencies	Total
Central Coast	Gosford, Wyong	7	12	1	20
Far West	Balranald, Broken Hill, Central Darling, Wentworth, unincorporated Far West	4	5	1	10
Hunter New England	Armidale Dumaresq, Cessnock, Dungog, Glen Innes Severn, Gloucester, Greater Taree, Great Lakes, Gunnedah, Guyra, Gwydir, Inverell, Lake Macquarie, Liverpool Plains, Maitland, Moree Plains, Muswellbrook, Narrabri, Newcastle, Port Stephens, Singleton, Tamworth, Tenterfield, Upper Hunter Shire, Uralla, Walcha	9	20	3	32
Illawarra Shoalhaven	Kiama, Shellharbour, Shoalhaven, Wollongong	6	5	-	11
Mid North Coast	Bellingen, Coffs Harbour, Kempsey, Nambucca, Port Macquarie - Hastings	6	16	1	23
Nepean Blue Mountains	Blue Mountains, Hawkesbury, Lithgow, Penrith	10	12	1	23
Northern NSW	Ballina, Byron, Clarence Valley, Kyogle, Lismore, Richmond Valley, Tweed	3	8	-	11
Northern Sydney	Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Manly, Mosman, North Sydney, Pittwater, Ryde, Warringah, Willoughby	8	12	1	21

Region	Local Government Area	Designated agencies	Registered agencies	Arranging only agencies	Total
Southern Eastern Sydney	Botany Bay, Hurstville, Kogarah, Randwick, Rockdale, Sutherland Shire, Sydney LGA - Inner and East SLAs, Waverley, Woollahra, Lord Howe Island	12	13	2	27
Southern NSW	Bega Valley, Bombala, Cooma-Monaro, Eurobodalla, Goulburn Mulwaree, Palerang, Queanbeyan, Snowy River, Upper Lachlan Shire, Yass Valley	5	7	-	12
South Western Sydney	Bankstown, Camden, Campbelltown, Fairfield, Liverpool, Wingecarribee, Wollondilly	5	9	-	14
Sydney	Ashfield, Burwood, Canada Bay, Canterbury, Leichhardt, Marrickville, Strathfield, Sydney LGA - South and West SLAs	10	11	1	22
Western Sydney	Auburn, Baulkham Hills Shire, Blacktown, Holroyd, Parramatta	7	4	0	11
Murrumbidgee	Albury, Berrigan, Bland, Boorowa, Carrathool, Conargo, Coolamon, Cootamundra, Corowa Shire, Deniliquin, Greater Hume Shire, Griffith, Gundagai, Harden, Hay, Jerilderie, Junee, Leeton, Lockhart, Murray, Murrumbidgee, Narrandera, Temora, Tumbarumba, Tumut Shire, Urana, Wagga Wagga, Wakool, Young	5	12	1	18
Western NSW	Bathurst Regional, Blayney, Bogan, Bourke, Brewarrina, Cabonne, Cobar, Coonamble, Cowra, Dubbo, Forbes, Gilgandra, Lachlan, Mid-Western Regional, Narromine, Oberon, Orange, Parkes, Walgett, Warren, Warrumbungle Shire, Weddin, Wellington	2	10	-	12
<b>TOTAL</b>		<b>99</b>	<b>156</b>	<b>12</b>	<b>267</b>

**Table 2.4 Summary of voluntary out-of-home care activity 2014–15**

	<b>Total 2013-14</b>	<b>Jul-Sept 2014</b>	<b>Oct-Dec 2014</b>	<b>Jan-Mar 2015</b>	<b>Apr-Jun 2015</b>	<b>Total 2014-15</b>
<b>Agencies</b>	<b>159</b>	<b>160</b>	<b>160</b>	<b>160</b>	<b>162</b>	<b>162</b>
Designated agencies	37	36	36	37	39	39
Registered agencies	122	124	124	123	123	123
<b>Children and young people accessing care</b>	<b>2321</b>	<b>1414</b>	<b>1364</b>	<b>1403</b>	<b>1443</b>	<b>2115</b>
Children and young people recorded with a disability	2182	1336	1309	1348	1333	1942
<b>Care episodes recorded</b>	<b>19,023</b>	<b>4606</b>	<b>4768</b>	<b>4738</b>	<b>4408</b>	<b>18,462</b>
<b>Supervised placements</b>	<b>79</b>	<b>78</b>	<b>74</b>	<b>103</b>	<b>80</b>	<b>100</b>
Placements supervised by a designated agency other than ADHC	4	4	4	4	5	5
Placements supervised by ADHC	75	74	70	99	75	95
<b>Case plans recorded</b>	<b>83</b>	<b>67</b>	<b>65</b>	<b>82</b>	<b>78</b>	<b>78</b>

***Plans for 2015–16***

The Office of the Children's Guardian will:

- conduct a monitoring visit to all voluntary out-of-home care agencies
- continue to identify and register agencies planning to provide and or arrange voluntary out-of-home care
- continue to manage the voluntary out-of-home care monitoring framework
- continue to manage voluntary out-of-home care register activity, including supervision and case planning thresholds
- further consult with ADHC to identify any additional reports that may be beneficial to ADHC planning
- continue to publish statistics, such as the number of children and young people in voluntary out-of-home care and the number of children accessing voluntary out-of-home care recorded as having a disability, on the Office of the Children's Guardian website
- review the voluntary out-of-home care regulatory framework to take into account the rollout of the National Disability Insurance Scheme across NSW
- identify breaches or non-compliance issues in line with the voluntary out-of-home care procedures
- report relevant breaches to the Child Protection Helpline.

## 2.4 Children's employment

The Office of the Children's Guardian recognises the benefits of a thriving creative arts industry and works with the industry to ensure the safety, health, and wellbeing of the children employed within it.

In NSW, children's employment in the following industries is regulated under Chapter 13 of the *Children and Young Persons (Care and Protection) Act 1998* and the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010:

- entertainment
- exhibition
- still photography
- modelling
- door-to-door sales.

### **Background**

The legislation defines employment as providing payment or giving material benefit to a child or another person in return for services provided by the child.

Schedule 1 of the Regulation contains a mandatory code of practice. Authorised and exempt employers must comply with this code of practice. While employers may be granted an exemption from the requirement to hold an authority to employ children in specific circumstances, they are still required to comply with the code of practice.

The Office of the Children's Guardian regulates the industry by issuing employers with an authority and reviewing employers' pre-employment notification information to ensure children will be safe in their work environment. We also conduct location visits to ensure employers comply with the code of practice.

### **Authorisation**

Employers must apply for an authority if they plan to employ a child in NSW who is:

- under 15 years for entertainment (live or recorded), exhibition or still photography
- under 16 years for modelling
- between 14 years and 9 months and 15 years for door-to-door sales.

Before granting an authority, the Office of the Children's Guardian assesses an employer's suitability to employ children. This assessment is based on factors including: an employer's previous compliance history, their current proposals for employment of children, and their strategies for complying with the code of practice. Authorities are granted for one or 12 months.

### **Pre-employment notification**

In addition to holding a valid authority, employers must notify the Office of the Children's Guardian of each instance of child employment before employment begins. This pre-employment notification helps to identify any potential risks and work with the employer needs to undertake to mitigate those risks. The pre-employment notification must include information about the child, the proposed work schedule, risks associated with the child's work employment location, and the employer's strategies for managing risks and complying with the code of practice.

### **Variations to the code of practice**

Where an employer is unable to comply with the code of practice, the Office of the Children's Guardian may approve variations for child employment plans. Employers are required to submit information demonstrating that:

- every reasonable attempt has been made to adjust work requirements to comply with the code of practice
- the child's welfare will not be compromised
- the child and the child's parent have been consulted.

### ***Compliance and monitoring***

The Office of the Children's Guardian assesses compliance with the code of practice through a variety of strategies including:

- consulting with new employers
- conducting location visits to identify and address unusual or risky work environments
- conducting location visits that focus on specific high-risk situations such as the employment of very young children and babies or psychologically distressing scenarios
- the monitoring of long-term employment of children.

### **Unauthorised employment**

The Office of the Children's Guardian proactively targets employers of children that do not hold a valid authority. We also receive information on unauthorised employment from:

- members of the public
- parents of children
- stakeholders such as talent agents, producers, safety officers, nurses
- social media and the internet.

### **Non-compliance**

When a breach of the children's employment legislation has been identified, the Office of the Children's Guardian will issue a reminder letter, a formal warning or a breach notice. Employers issued with a breach notice will not qualify for a discount on their authority fee for the next two years. Under certain circumstances, breaches may also result in additional conditions being imposed on the employer, suspension or revocation of authority, or prosecution.

### ***Stakeholder education and engagement***

During 2014-2015 the children's employment education and community engagement strategy focused on:

- engaging sections of the industry that appeared to have little knowledge of the child employment legislation
- identifying areas of risk through the development of a risk-based compliance framework
- educating existing authorised employers about the child employment legislation to improve their levels of compliance and providing advice on making their organisation child safe. (See section 2.1 Stakeholder engagement).

## ***Results***

### ***Authorisations and exemptions***

The Office of the Children's Guardian processed 214 authority applications: 169 for entertainment and exhibition, 45 for still photography.

There continues to be a steady increase in authorities processed for both entertainment and exhibition, and still photography:

- 90 one-month authorities, increase of 29% from the previous year
- 127 12-months authorities, increase of 9.5% from last year
- one authority upgraded from still photography to entertainment and exhibition
- six authorities upgraded from one month to 12 months.

Application fees received (including surcharge fees) totalled \$305,502.75, an 18% increase from the previous year.

The Office of the Children's Guardian can reduce the authority fee by 25% if an employer has demonstrated compliance with the code of practice within the previous two years. Of the total approved authority applications, 78 employers (36%) received a 25% discount on their application fee because they had demonstrated compliance with the code of practice in the last two years. This is less than the previous year where 83 employers (45%) had received the discount.



The Office of the Children’s Guardian aims to process all applications within 14 days. This year 98% of applications were processed within this timeframe, with 53% processed on the same day.

Employers can apply for an exemption from the requirement to hold an authority where a child is employed for:

- a fundraising appeal
- a charity
- no more than 10 hours per week (for a child older than 10 years), outside of school hours.

Fifty employers were exempt from the requirement to hold an authority in NSW. This is a 42% increase in exemptions approved from the previous year. Of these employers:

- 43 were exempt because they employed children over 10 years outside of school hours and for no more than 10 hours in a week
- six were exempt because they employed children for the purpose of an occasional entertainment or exhibition of which all the proceeds would be given to a charitable object
- one employer was exempt under section 224 (1) (d) of the Act, which allows the Children’s Guardian to exempt employers if they provide valid reasons for requiring an exemption.

**Variations**

Employers are required to comply with all aspects of the code of practice. If they do not, they are considered to be in breach. In limited circumstances employers may seek a variation from the code of practice.

The Office of the Children’s Guardian approved 173 variations to the code of practice. Three requests were refused and a further seven were approved with modification. The variations were issued across 94 productions (9% of total productions).

**Table 2.5 Variations by employment type**

Employment type	Number of variations
Exhibition	10
Film and TV	67
Stills	4
Theatre	13
Total	94

The variations were to:

- extend children’s maximum employment hours per day (29%)
- extend the hours of work before providing a rest break (17%)
- employ a child after 9:00 pm on an evening before school (9%)
- employ a child outside the times during which they are allowed to work (12%)
- employ babies under 12 weeks (2%).

Most variations were to provide the employers with more flexibility in their schedule. Generally, variations were approved when employers were able to make concessions elsewhere in their schedule to accommodate the children’s needs.



Due to the nature of the work, still photography sessions do not normally require variations as they mostly employ children for a short duration and during daylight hours.

Employers who plan to employ a child under 12 weeks old are required to seek a variation to the conditions of their authority.

### ***Compliance and monitoring***

In 2014–15 the Office of the Children’s Guardian received 1011 notifications of productions that involved the employment of children. This is an increase of 6% (956 notifications) from the previous year and is the highest number of production notifications since the Office of the Children’s Guardian began regulating children’s employment in 2004.

Film and television productions were the largest portion of children’s employment productions in 2014–15.

- 58% television commercials
- 14% television series
- 5% short films
- 9% voice overs
- 1% feature films
- 4% on line video/internet
- 3% reality television series
- 2% video or DVD

#### **Achieving good outcomes for employed children – a case example**

An employer planned to employ four children aged 7, 8, 9 and 10 in their theatrical play. During the assessment of the production the Office of the Children’s Guardian’s children’s employment team noted that the children would be exposed to information about pornography, strong language and would be present on stage when the adult actors were simulating a sex scene.

The children’s employment team discussed the appropriateness of the script with the play’s director as well as the actions required by the children. The director agreed to change the script, including replacing the sex scene in the play with a pillow fight.

In 2014–15, children’s employment officers visited 39 locations.

The reasons for conducting location visits included:

- monitoring location or physical risks
- monitoring a child’s performance for their psychological wellbeing
- routine checking
- visiting a new employer
- monitoring the employment of babies under 12 weeks and babies between 12 weeks and three years.

### Children's employment team in action

The children's employment team visited the set of a television commercial production. Children were re-creating a war scene in which soldiers invaded a village and kidnapped the children. The adult actors were carrying rifles and travelling in army trucks, providing a realistic setting. During the visit the mother advised the production manager that her six year old child had become visibly upset and scared when an adult actor grabbed him as part of a kidnapping scene. She also told the production manager that she didn't know that the content would be so distressing.

This raised the question as to whether the employer complied with the code of practice. Before casting, the employer is required to fully inform the child and parent of the nature of the role or situation and must take into account any comments from the child or parent. On further investigation, the employer found that a guardian of the child had signed the consent form while the mother was away and did not pass on all of the information to the mother.

As a result, the employer gave the child a break from filming to interact with the adult soldiers. When he returned to set he appeared more relaxed and happy, able to continue with the scene.

During 2014-15 there were 4995 instances recorded where children had been employed in a production, with most children employed between 12 and 15 years of age.

The children's employment team often identifies potential employment of children by proactively sourcing information from public advertising, casting websites, social media and media reports. Of the 55 enquiries initiated by the Office of the Children's Guardian, 39 launched an investigation into possible unauthorised employment with the remainder finalised as no further action required.

**Table 2.6 Investigating potential breaches**

Type of enquiry	Number
Entertainment and exhibition/still photography outside jurisdiction (child not paid)	2
Entertainment and exhibition/still photography outside jurisdiction (child over 15/16 years of age)	1
Entertainment and exhibition/still photography outside jurisdiction (not in NSW)	2
General enquiry code of practice/Regulation/Act	11
Possible unauthorised employment	39
Total	55

Of the 1011 productions notified in 2014-15, 46 (5%) were identified as in breach of the code of practice categorised as follows:

- 23 investigated for non-compliance
- one issued a breach notice
- eight issued a formal warning
- 14 issued a reminder.

This relatively low rate of non-compliance can be attributed to the Office of the Children's Guardian's proactive and preventative approach, working with employers to ensure compliance before and during the employment of children.

#### Working in partnership with employers

The children's employment team received notification of a short horror film production that depicted rape, torture, and general violence towards children.

The team worked with the employer to achieve the best outcome for the production while ensuring the children's safety, health and well-being. The solution involved using substitute stories rather than the actual script to protect the child. In one scene a six year old child was required to be chained in a barn like a dog by an abusive adult. In this case, the child actor was told he was a prince and a wicked fairy had turned him into a dog.

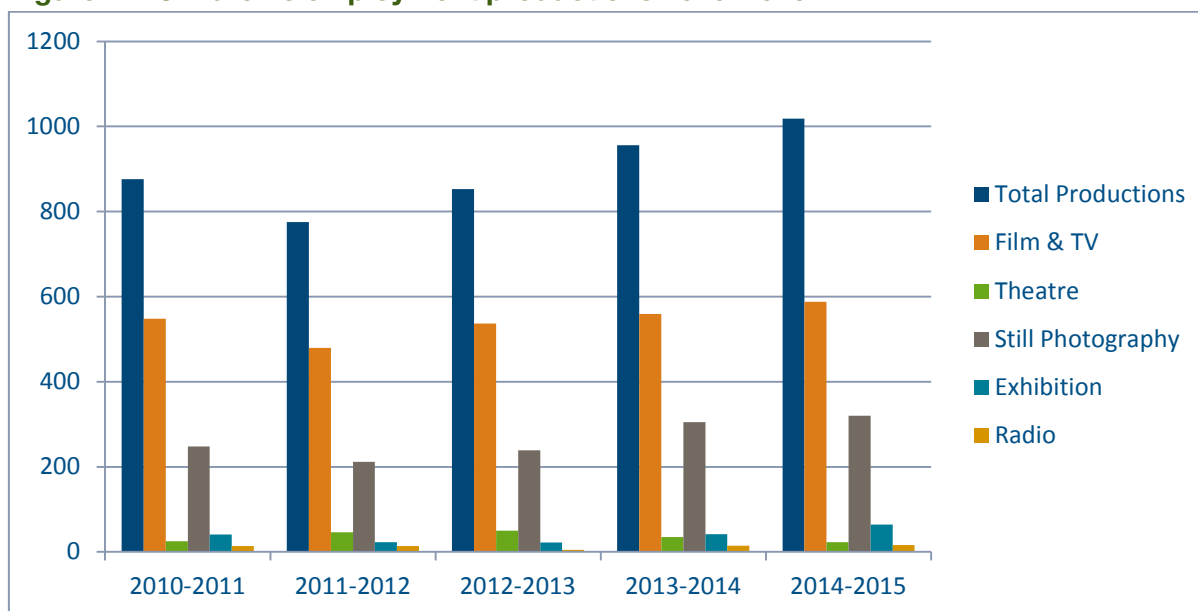
The employer achieved the required shot while the child was shielded from the adult themes portrayed in the production. The team also ensured that the child's parents were comfortable with the approach before shooting began.

The children's employment team also worked with talent agents during 2014-15 around their legislative obligations to ensure they referred their child talent to authorised employers only.

#### Reviewing the children's employment regulation

The Office of the Children's Guardian began the review of the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010 with the ActSafe Forum on 4 August 2014. More than 200 delegates from film, television, theatre and talent agents attended. More details of stakeholder engagement for the review of the regulation can be found in section 2.1.

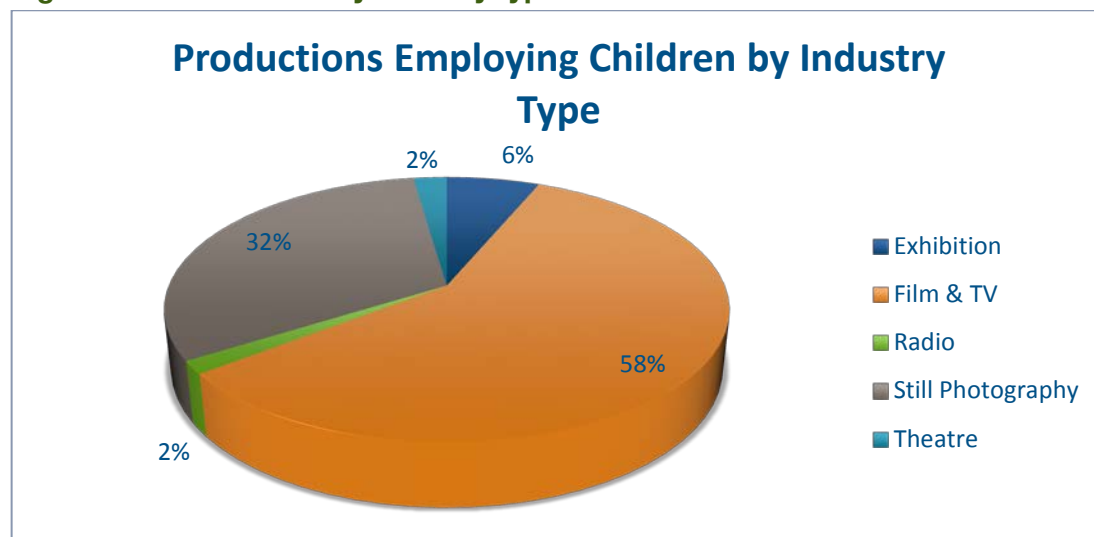
**Figure 2.2 Children's employment productions 2010–2015**

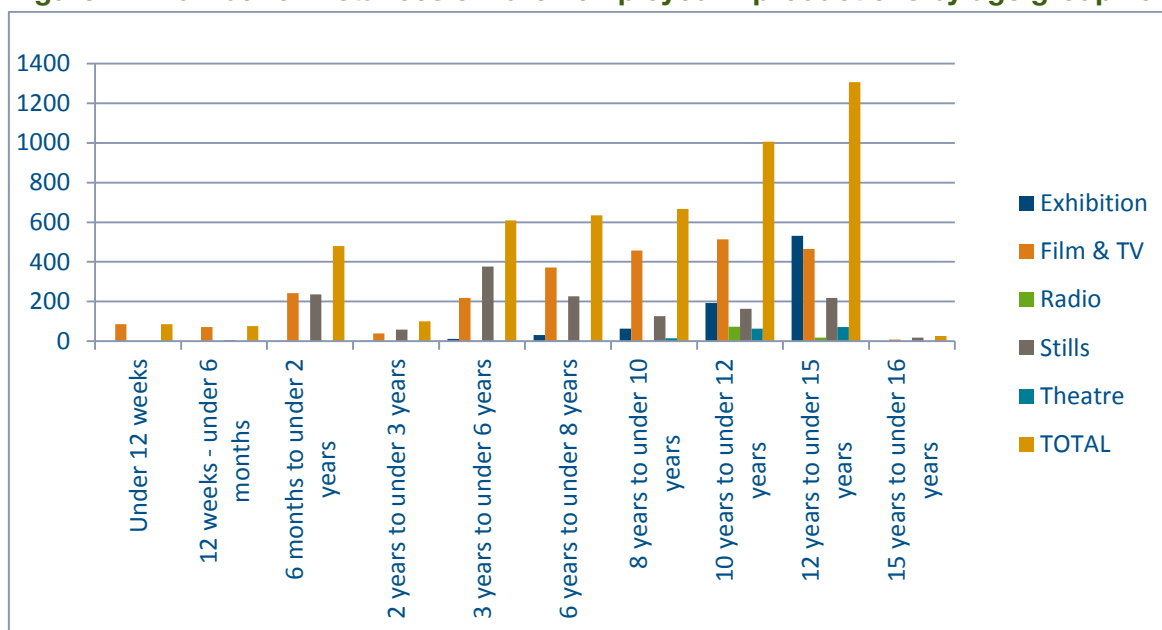


**Table 2.7 Children's employment productions 2010–2015**

	2010-11	2011-12	2012-13	2013-14	2014-15
<b>Total productions</b>	<b>876</b>	<b>775</b>	<b>853</b>	<b>956</b>	<b>1011</b>
<b>Film and TV</b>	548	480	537	559	588
<b>Theatre</b>	25	46	50	35	23
<b>Still photography</b>	248	212	239	305	320
<b>Exhibition</b>	41	23	22	42	64
<b>Radio</b>	14	14	5	15	16

**Figure 2.3 Productions by industry type 2014-15**



**Figure 2.4 Number of instances children employed in productions by age group 2014-15****Plans for 2015-16**

Stakeholder meetings are planned during 2015-16 to identify emerging trends and issues within the prescribed industries.

Further consultation will occur in relation to draft children's employment regulations and regulatory impact statement.

An online authority application process that aims to reduce turn-around times for employers and to achieve greater efficiencies for the Office of the Children's Guardian will be piloted.

The Office of the Children's Guardian plans to launch a new compliance program to ensure children have safe working conditions and enjoy their experiences working within the prescribed industries. The compliance program aims to reduce risks of:

- sexual abuse
- physical and mental harm
- educational neglect
- exploitation.

The Office of the Children's Guardian will continue to work with the industry to develop resources and educational material to keep children working in these sectors safe.

## 2.5 Compliance and auditing: Working With Children Check

### *Background*

#### **Compliance**

People who work with children have a legal responsibility to hold a Working With Children Check. The *Child Protection (Working with Children) Act 2012* and the *Child Protection (Working with Children) Regulation 2013* provide the legislative framework by which employers and workers in child-related work must comply.

Sections 8 and 9 of the Act require volunteer and paid workers to have applied for the appropriate class of clearance before engaging in child-related work, and for their employers to have verified their Application or Working With Children Number before engaging them in child-related work.

Section 39 of the Act provides the Office of the Children's Guardian with the power to monitor and audit compliance with the legislation, while Schedule 1 of the Regulation provides a staged application schedule for existing workers and their employers.

Each year the Office of the Children's Guardian develops a compliance program. The program adopts a risk-based approach to monitoring and auditing employers and workers and directs resources to work sectors that are considered to be of a greater risk of non-compliance with the legislation or where the work sector or geographical area is considered a greater risk of harm to children after considering data from various sources.

The following are the auditing and monitoring functions undertaken by the Office of the Children's Guardian:

1. auditing the employers and workers in the defined work sectors
2. monitoring workers who are barred from working with children or do not hold a clearance and are working in child-related work
3. instigating enforcement action where non-compliance with a barred outcome is found
4. investigating matters that are referred to us concerning workers or employers who may not be meeting their legislative obligations.

#### **The compliance program for 2014-15**

The compliance program for 2014 included those work sectors phased in under the Act in the first year of the new Working With Children Check. The program began on 1 April 2014 and continued until 31 December 2014, with two programs carried over to 2015-16. In 2014-15 the following work sectors were audited:

- adult household members of authorised carers
- authorised carers (out-of-home care, foster care and kinship carers)
- child protection
- disability services
- justice centres
- religious services – religious leaders
- school cleaners
- youth workers.

The audit of the second group of work sectors began in April 2015 and included:

- child development and family welfare services
- religious services – remaining workers
- residential services
- transport services
- principal officers and board members of designated and registered agencies

### ***The auditing process***

The first stage of the audit is to complete a desk audit. Desk-based auditing involves contacting peak groups representing the various work sectors to obtain complete lists of their member organisations, confirming contact personnel and identifying how organisations manage their Working With Children Check obligations.

Their response determines how the audit will be conducted. If organisations manage their obligations centrally using a head office, for example, the central head office will be audited whereas if the obligations are managed by services at a local level, each individual organisation will be contacted separately.

Organisations are selected at random and are required to produce details of paid and volunteer workers engaged in child-related work.

The details provided are then matched to the data held in the Working With Children Check system and, where discrepancies are identified, the organisation is contacted and advised to rectify any discrepancies. Where compliance breaches of Sections 8 or 9 of the Act are identified the organisation and individual are contacted immediately to take appropriate remedial action, and are monitored until they achieve compliance.

The second stage of the audit process involves site visits, where Compliance Officers meet with representatives of organisations. Site visits also include cross-matching of Working With Children Check records similar to the desk audit with a focus on the employers understanding of their obligations under the Act including:

- the requirement to verify the Working With Children number or application number before the commencement of employment (or for existing workers, in accordance with the phase-in schedule)
- the management and removal of a barred worker and the offences that may apply for non-compliance
- any obligations to report findings of misconduct (if required to do so under the Act)
- administration and record-keeping requirements in relation to Working With Children Check.

During site audits compliance officers discuss the importance for organisations to implement child-safe policies and procedures such as codes of conduct, policies on managing barred workers – and whether the requirement for obtaining a Working With Children Check is incorporated into their recruitment practices.

The Office of the Children's Guardian has a primary function to promote child safe organisations. During the site visits officers take the opportunity to provide information and advice on what policies and practices the employer should adopt.

Audits of the first phase-in work sectors were completed by 31 December 2014 with the exceptions of the religious services and disability services sectors. The religious services audit will run until the end of 2015 due to this sector being phased-in over two years and the disability services sector was extended for a further six months due to high levels of non-compliance identified in the 2014 audit. School cleaners audit will continue into early 2015 as this sector was added into the phase-in schedule via regulatory amendment in October 2014.

### ***Monitoring barred workers and withdrawn applications***

The compliance team has responsibility for managing employers in relation to the barred outcome of a Working With Children Check application. The team contacts employers to advise them of the barred or interim bar outcome and to ensure that the barred worker has been removed from child-related work.

Where the employer is not known because they have not verified the Working With Children Number online, the team conducts further investigations in an attempt to identify any current employer.

Where an applicant is at risk assessment stage and chooses to withdraw their application, the withdrawal is followed up with the worker and the employer to make sure the applicant is not working with children. This process also relies on the worker having been verified by the employer using the online portal.

### ***Investigating referred matters***

The Office of the Children's Guardian receives referred matters from many sources including individuals, government agencies, such as the police and the NSW Ombudsman, and internally through the Working With Children Check operations team. Each matter is assessed and investigated to ensure compliance with the legislation.

### ***Results***

A summary of compliance program results is provided in Table 2.8.

### ***Adult household members***

The audit program for adult household members of authorised carers was separated into two categories: adult household members living in the home of an authorised carer in an accredited agency; and those in the homes of family day care providers and home based care providers.

Family day care and home based care providers are regulated by the Early Childhood Education and Care Directorate of the Department of Education and Communities. They provided details of 226 family day care and 56 home based care providers which were cross-matched to data held on the Working With Children Check system.

### ***Authorised carers***

The audit program for authorised carers and their adult household members was separated into two categories: government (Family and Community Services) and non-government. Site audits were conducted for five non-government organisations and two Family and Community Services offices.

### ***Child protection***

The Department of Family and Community Services was included in this audit and is counted as one employer.

### ***Disability services***

Due to the relatively high number of breaches identified in the initial audit (61 breaches in 75 employers) an audit was conducted of another 52 employers, from which a further 51 breaches were identified.

### ***Religious services***

The audit of the religious services sector has been split over two years. The data in Table 2.8 is for the first year in which more than 7,000 religious leaders were checked against the Working With Children Check system.

The number of employers audited is not countable because different faiths manage their Working With Children Check administration in different ways, e.g. Assemblies of God churches were audited individually as each has responsibility for the Working With Children Check (more than 300 churches audited), while the Presbyterian Church manages the Working With Children Check centrally for its member churches (one audit).

### ***School cleaners***

The audit also investigated where applicants who were identified in the Working With Children Check system as holding a volunteer clearance for work as a school cleaner to ensure they were not in paid employment, with 11 breaches detected and rectified.

### ***Child development and family welfare services***

This audit began in 2015 and is ongoing.

### ***Residential services***

This audit began in 2015 and is ongoing.

### ***Transport services for children***

This audit began in 2015 and is ongoing.

### ***Principal officers and board members of designated and registered agencies***

Planning for this audit of 209 agencies began in June 2015.



### ***Investigating referred matters***

In 2014–15, compliance officers investigated 171 referred matters. Of these, 120 were internal referrals from various business units within the Office of the Children's Guardian, 39 were from members of the public, 10 were from the Department of Education and Communities, and two were from Family and Community Services.

Through negotiations with NSW Police, the Office of the Children's Guardian has implemented a formal referral process with the NSW Police Sex Crimes Squad under which matters can be referred directly from the Office of the Children's Guardian to NSW Police Local Area Commands.

### ***Monitoring barred workers and withdrawn or terminated applications***

When an applicant for the Working With Children Check receives a barred outcome, the employer is notified under Section 20 (4) of the Act. It is an offence to engage a person in child-related work where the worker does not hold a valid Working With Children Check clearance. At 30 June 2015, 456 employers who had verified a barred worker were contacted regarding their legislative obligations.

### ***Monitoring applicants who withdraw a Working With Children Check application.***

At 30 June 2015, there were 230 applicants who withdrew their application while it was being risk assessed. There were 483 terminated applications, and 435 employers were contacted regarding the withdrawn applicants to remind them of their legislative obligation to ensure the worker does not continue to engage in child-related work without a valid application for a Working With Children Check.

Of the applications that were closed where verification had taken place, 283 verifying employers were contacted requesting they re-verify the applicant's new application or clearance number.

**Table 2.8 Summary outcomes, compliance program 2014-15**

Work sector	Total employers audited	Breaches – no WWCC	Breaches – wrong class WWCC	Total breaches **
<b>Adult household members – family day care and home-based care</b>	282 checked against WWCC registrations.* 68 audited, 5 site visits	17		17
<b>Authorised carers and adult household members – out-of-home care</b>	45 audited, 7 site visits	9		9
<b>Child protection</b>	67 audited, 5 site visits	4	1	5
<b>Disability services</b>	127 audited, 7 site visits	66	46	112
<b>Justice services</b>	12 audited, 1 site visit	0	0	0
<b>Religious services</b>	12 faiths audited, 8 visits conducted. Number employers audited not countable	28	1	29
<b>School cleaners</b>	473 audited, 3 site visits	66	3	69
<b>Youth workers</b>	71 audited, 5 site visits	0	0	0
<b>Child development</b>	20 audited, 1 site visit	0	0	0

Work sector	Total employers audited	Breaches – no WWCC	Breaches – wrong class WWCC	Total breaches **
Residential services	21 audited, 1 site visit	3	2	5
Transport services	59 audited, 5 site visits	5	5	10
	963 employers audited, 12 faiths audited, 48 site visits	198	58	256

\* All breaches were rectified.

\*\* Details provided by the Early Childhood Education and Care Directorate, Department of Education

### **Plans for the future**

Plans for 2015-16 include the second phase-in group of work sectors. While work has begun with this program it will be completed in early 2016 and preparation will start for the audit of sectors phasing in at 31 March 2016.

The 2016-17 compliance program includes clubs and other bodies providing service to children, entertainment for children, and assessment of reportable matters.

More than 9,000 individual sporting clubs are registered as an association with the majority of them engaging volunteer workers. The 2016-17 program will also include workers in a wide range of entertainment services for children.

## 3 Working With Children Check operations

The new NSW Working With Children Check system's second year of operation has seen the consolidation and development of the program. Key improvements include:

- volunteers and self-employed people also undergo the Working With Children Check
- the Check is valid for five years
- the Check is portable across all categories of child-related employment
- the phase-in of existing child-related workers
- employers can no longer engage a person assessed as posing a risk to children
- applicants are subject to ongoing monitoring for new police and workplace records to manage risk to children
- an online application process with faster results
- greater powers to gather relevant information from external agencies.

### 3.1 Working With Children Check applications and clearances

#### *Background*

The four approved screening agencies that previously conducted Working With Children Checks merged with the Office of the Children's Guardian at 15 June 2013.

While new employees in child-related work are required to apply for a clearance before starting employment, the first phase-in of existing employees ended on 31 March 2014. The sectors included were child protection, disability services, justice centres, religious services (such as ministers), youth workers, authorised carers, adult household members, family day carers and home-based education services.

The second phase-in of existing employees ended on 31 March 2015. The relevant employment sectors were child development and family welfare services, religious services (children services), residential services, transport services for children, designated agencies and adoption service providers.

From 1 April 2015 to 31 March 2016 other categories of child-related work will be phased-in, including clubs and other bodies (such as sporting bodies) and entertainment for children.

#### *Results*

In 2014–15, the Office of the Children's Guardian processed 357,241 applications.

A significant number of applications were received from people who, under the transitional provisions, were under no legal obligation to obtain a Working With Children Check in the first phase-in period. Many employers adopted a position of requiring both paid and unpaid workers to obtain a Check, and, having regard to the extra protection the new Check offers to children, a determination was made by the Office of the Children's Guardian to accommodate the unanticipated applications.

Many employers also required Checks from exempt workers, such as parent volunteers working with their own children at school or in a sports club, or have asked workers to have a clearance when the legislation allows people to work once they have received their application (APP) number. These additional applications led to delays in processing applications.

On average there were 1374 online applications per day, of which 1182 (86%) were processed by Roads and Maritime Services (RMS). The discrepancy between these two figures is the result of people not attending RMS to verify their identity and thus not completing their application. For the purposes of reporting, only applications in which

an applicant's identity has been confirmed by RMS have been considered. Of these confirmed applications, 51% were for paid workers and 49% were for volunteers.

**Table 3.1 Identity confirmed applications by sector**

Sectors	Applications 2013-14	Applications 2014-15	Total applications 2013-15
Education	99,419	78,547	177,966
Clubs or other bodies providing services to children	39,309	55,582	94,891
Early education and child care	49,168	37,139	86,307
Children's health services	42,851	39,538	82,389
Religious services	46,732	32,154	78,886
Disability services	24,480	13,861	38,341
Parent volunteer – Other	15,277	22,321	37,598
Authorised carer	26,040	9181	35,221
Transport services for children	9533	18,250	27,783
Adult household member	16,710	10,149	26,859
Youth workers	12,495	8793	21,288
Child protection services	12,814	4744	17,558
Entertainment for children	6317	7149	13466
Residential services	6769	6313	13,082
Child development	4828	4671	9499
School cleaner	2636	4407	7043
Justice centres	2830	1137	3967
Parent volunteer – mentoring	1614	1965	3579
Parent volunteer – disability	677	382	1059
Prospective guardians		742	742
Prospective adoptive parents		216	216

### Records review

Despite the high volume of applications received in the second year, 71% of applications where there were no criminal records were processed within 24 hours. This is achieved when CrimTrac, the national criminal records repository, can immediately determine there is no criminal record for the applicant. Where CrimTrac indicates that a record they hold may relate to an applicant, state and territory police agencies must investigate more closely. Most suspected matches are dismissed but this investigation can take several days.

Where records are identified, they are reviewed by the Office of the Children's Guardian to determine whether the applicant, assessed in accordance with the *Child Protection (Working with Children) Act 2012*, presents a risk to children. To assist with this determination, the Office of the Children's Guardian relies on information from external agencies such as NSW local and district courts, NSW and interstate police services and other agencies involved with child-related employment.

**Table 3.2 Number of Working With Children Checks processed**

Activity	Result 2012-13	Result 2013-14	Result 2014-15*
Total number of applications processed	218,848	420,499	357,241
% of Checks completed within two working days	78%	89%	84%
% of Checks completed in one working day	N/A	85%	71%

\*In 2014-15 employer verifications increased significantly which resulted in some Checks being completed in two days rather than one day.

Based on the information obtained and requirements under the *Child Protection (Working with Children) Act 2012*, an applicant's results will be one of the following:

- automatic disqualification from working with children
- referral for risk assessment
- clearance to work with children.

Of the Checks referred to records review in 2014–15, 41,101 (89%) did not require risk assessment under the *Child Protection (Working with Children) Act 2012* and were cleared. Where a relevant record was identified, 296 applicants were automatically disqualified and 2,006 referred for risk assessment.

At 30 June 2015, there were 2,962 applicants undergoing a review to determine if a risk assessment was required.

**Table 3.3 Records review**

Year	Number of Checks referred for records review	Number of Checks referred for risk assessment	% of Checks referred for risk assessment	Number of Checks resulting in automatic disqualification	% of Checks resulting in automatic disqualification
2013–14	50,051	2353	4.7%	143	0.3%
2014–15	46,040	2006	4.4%	296	0.6%

## 3.2 Risk assessment

### **Background**

The Working With Children Check involves a national police records check, a check for reports of workplace misconduct involving children made by reporting bodies (including employers) and notifications by the NSW Ombudsman. Full criminal histories are disclosed to the Office of the Children's Guardian for the purpose of the Working With Children Check, including spent convictions, charges (irrespective of their outcome) and juvenile records.

If a person has a conviction or proceedings have commenced in relation to an offence listed under Schedule 2 of the *Child Protection (Working with Children) Act 2012*, and the person was an adult at the time of the offence, the Children's Guardian must not grant a Working With Children Check clearance. These applicants are automatically disqualified from child-related employment. Schedule 2 offences include sex offences and serious violence towards children.

### **Risk assessment process**

A risk assessment is conducted when a Schedule 1 assessment requirement trigger is identified. Assessment requirement triggers include:

- convictions for violence offences against or in the presence of children
- criminal charges for violence offences against or in the presence of children
- patterns of violent or sexual behaviour against adults and children
- convictions for sexual offences committed when the applicant was a juvenile offender
- charges for sexual offences committed against adults and children
- findings of misconduct involving children
- notifications by the NSW Ombudsman.

In conducting a risk assessment, the Office of the Children's Guardian relies on information from external agencies such as courts, Corrective Services NSW, Department of Family and Community Services, and NSW and interstate police services. To ensure procedural fairness to applicants undergoing a Working With Children Check, the Office of the Children's Guardian takes into account any information provided by an applicant before a final decision is made.

When assessing an individual's risk to the safety of children, the Office of the Children's Guardian may consider the following factors, as set out in Section 15(4) of the *Child Protection (Working with Children) Act 2012*:

#### **Factors relating to the conduct:**

- seriousness of the conduct
- length of time since it occurred
- age and vulnerability of the victim
- relationship between offender and victim
- age difference between offender and victim
- whether the offender knew or could have known the victim was younger than 18.

#### **Factors relating to the applicant:**

- conduct since the offence
- age at the time of offence
- current age
- seriousness of total criminal records.

#### **Factors relating to recurrence:**

- likelihood of the offences or conduct being repeated
- impact on children of the offences or conduct being repeated.

For these reasons, the risk assessment process is often complex and can take varying lengths of time to complete. Due to the unexpectedly high demand for Working With Children Checks, the Office of the Children's Guardian has experienced some delays in processing these applications when a risk assessment is required. To deal with the influx of applications, additional staff were engaged to manage the large number of Checks and risk assessments.

Oversight of the final risk assessment decisions made by the Office of the Children's Guardian is by an internal review panel of senior officers, convened by the Children's Guardian.

### ***Interagency liaison with police***

The Office of the Children's Guardian has developed a collaborative relationship with the Australian Federal Police (AFP) to protect children. The exchange of information between the two agencies means that, if a person has a Working With Children Check clearance in NSW and is charged by the AFP in relation to child exploitation material, the Office of the Children's Guardian will be advised of the charges and will be able to consider revoking the Working With Children Check clearance held by the person.

The NSW Police Sex Crimes Squad is regularly advised by the Office of the Children's Guardian of people barred from engaging in child-related work. These people are matched against the NSW Child Protection Offender Register and the Australian National Child Offender Register.

### ***Results***

Of the Checks undertaken in 2014-15, 2,006 were referred for risk assessment, which is 0.56% of the total number of applications processed. There were 1,146 risk assessments completed, which is 0.32% of the total number of applications processed.

**Table 3.4 Risk assessments**

	2012–13	2013–14	2014–15
<b>Working With Children Checks undertaken</b>	218,848	420,499	357,241
<b>Risk assessed</b>	899	790	1146

In 2014-15, 185 applicants (9.2% of Checks referred for risk assessment) were issued with an interim bar. An interim bar is placed on an applicant's Working With Children Check application when the Office of the Children's Guardian identifies a risk to the safety of children and young people if the applicant engages in child-related work, pending the determination of their Working With Children Check application.

There was a total of 1,146 completed risk assessments. Of these, 895 were cleared after assessment and 251 were issued with a decision bar following a determination by the Office of the Children's Guardian that the applicant posed a risk to the safety of children and young people.

A total of 682 applications were terminated at risk assessment. This happens when an applicant makes a written request to withdraw their Working With Children Check application or, at the discretion of the Office of the Children's Guardian, if the applicant failed without reasonable excuse to provide further information in support of their risk assessment within six months.

On termination of an application, the applicant is barred from working in child-related employment. If they are currently engaged in child-related employment they must cease work immediately. The Office of the Children's Guardian will notify any verifying employer to remove that person from child-related work. Validating the person's Working With Children Check application number will also reveal that the individual does not have a valid Working with Children Check application.

**Table 3.5 Risk assessments and results**

	2013-14	2014-15
<b>Risk assessments</b>	2353	2006
<b>Interim barred</b>	189	185
<b>Completed</b>	790	1146
<b>cleared</b>	758	895
<b>barred</b>	32	251
<b>Terminated</b>	123	682

At 30 June 2015, there were 1341 applicants undergoing a risk assessment.

### ***Continuous checking: ongoing monitoring***

A significant improvement to the Working With Children Check system is the ability for the Office of the Children's Guardian to continually monitor applications or clearances. If the outcome of a Working With Children Check is a clearance, the individual will be subject to ongoing monitoring for new relevant records for the five-year life of the clearance. Some continuous check events will trigger a risk assessment by the Office of the Children's Guardian, which may lead to the clearance being revoked as a result of a risk assessment. The Office of the Children's Guardian is also notified if there is a new relevant record while the application is undergoing processing or risk assessment.

In 2014-15, the Office of the Children's Guardian was notified of 1550 continuous check events for applicants within the Working With Children Check system. There were 102 applicants disqualified during this period due to proceedings commencing against them for an offence specified under Schedule 2 of the *Child Protection (Working with Children) Act 2012*. Where notification has been received that an applicant has a disqualifying offence, the Office of the Children's Guardian aims to bar the applicant within 24 hours of the record being identified.

There were 26 applicants who had a continuous check event and were refused a clearance following a risk assessment and 18 applicants who were interim barred pending the results of their risk assessment.

Of the checks received in 2014-15, 132 applicants had continuous check event records that required risk assessment under Schedule 1 of the *Child Protection (Working with Children) Act 2012*, with the majority undergoing risk assessment or preparation for risk assessment as at 30 June 2015.



**Table 3.6 Number of continuous check events**

	2013-14	2014-15
Continuous check events	343	1550
Automatically disqualified	38	102
Barred after risk assessment	6	26
Interim barred	29	18

### 3.3 Bars and appeals

#### *Background*

The Children's Guardian must not grant a Working With Children Check clearance to disqualified persons. This is someone who has been convicted of an offence specified under Schedule 2 of the *Child Protection (Working with Children) Act 2012* or proceedings have been commenced against a person charged with an offence specified under Schedule 2 and those proceedings have not been finalised.

In addition, a person may be refused a clearance at the completion of a risk assessment if the Office of the Children's Guardian assesses that the person poses a risk to the safety of children.

A person who has been refused a clearance cannot make a further application for a clearance for five years. An early application is permitted under some circumstances.

Most people who have been identified as a disqualified person or have been refused a clearance can appeal the decision through the NSW Civil and Administrative Tribunal. There are however circumstances in which a person cannot lodge an appeal (see Section 26 of the *Child Protection (Working with Children) Act 2012*).

#### *Results*

In 2014–15, the Office of the Children's Guardian refused 547 Working With Children Check clearances. Of those, 296 had disqualifying records. A further 251 were refused a clearance following a risk assessment.

**Table 3.7 Refusals 2013–14 and 2014–15**

	2013-14 (Number)	2013-14 (%)	2014-15 (Number)	2014-15 (%)
Working With Children Checks processed	420,499	100%	357,241	100%
Disqualifying offences identified	143	0.03%	296	0.08%
Refusal of clearance following risk assessment	32	0.0076%	251	0.07%

A total of 207 applications have been made to the NSW Civil and Administrative Tribunal to appeal the decision of the Office of the Children's Guardian. An additional four applications were made for judicial review to the NSW Supreme Court in matters where the tribunal did not grant a clearance/enabling order. At 30 June 2015, two of these matters were finalised and referred back to the tribunal to be re-heard, another was waiting for a determination, with the final matter ongoing.

At 30 June 2015, of the 173 matters before the tribunal (including two matters referred from the NSW Supreme Court), 99 matters were complete, 60 were before the tribunal and 14 matters were waiting determination. There were 38 orders granted by the tribunal, 32 orders not granted, 29 applications dismissed and four referred back to the Office of the Children's Guardian. Of the 38 orders granted, eight of these matters were Section 27 applications in which the tribunal set aside the original decision of the Office of the Children's Guardian. The tribunal upheld the decision of the Office of the Children's Guardian in a further 13 Section 27 applications.

In total, 61 applications remained open at 30 June 2015: 60 before the NSW Civil and Administrative Tribunal and one before the NSW Supreme Court.

### 3.4 Employer registration and verification of Working With Children Checks

#### *Background*

Employers can verify the status of an applicant's Working With Children Check online after registering with the new system.

#### *Results*

In 2014-15 there were 8,164 new employers registered.

**Table 3.8 Number of verifying employers as at 30 June 2015**

Registered employers	Verifying registered employers	Proportion
26,097	18,957	73%

At 30 June 2015, 73% of employers registered had verified at least one applicant and 66% of applicants had been verified by at least one employer.

**Table 3.9 Number of applications verified as at 30 June 2015**

	Applicants	Applicants verified	Proportion
Employee Check	376,197	277,903	74%
Volunteer Check	367,523	214,282	58%
Total	743,720	492,185	66%

When applicants are refused a Working With Children Check clearance or when an interim bar has been issued, the Office of the Children's Guardian notifies employers that have verified the applicant of the application status. For this reason, the registration of employers and their verification of applicants are particularly important.

#### *Workplace records and NSW Ombudsman notification of concern*

Also considered in the Working With Children Check are findings of workplace misconduct (workplace records) by a reporting body and notifications made by the NSW Ombudsman. If a misconduct investigation finds that sexual misconduct or serious physical assault of a child has occurred, nominated reporting bodies must report this finding to the Office of the Children's Guardian. The NSW Ombudsman will also report matters that indicate serious risk to children. These matters are reported regardless of whether the person has applied for a Working With Children Check. If a person already has a Working With Children Check application or clearance, the record or notification is matched to the applicant and the application proceeds to a risk assessment. If the person does not have a current

Working With Children Check application or clearance, the record or notification will be matched should they subsequently apply.

In 2014-15, 239 workplace records and NSW Ombudsman notifications were matched to applications within the Working With Children Check system. Of these, 143 were reported and matched to a person who had already lodged a Working With Children Check application or held a clearance. As at 30 June 2015, there were 2532 workplace misconduct and NSW Ombudsman notifications within the Working With Children Check system.

**Table 3.10 Workplace records and NSW Ombudsman notification of concern**

	2013-14	2014-15
<b>Workplace records notified by employers</b>	143	145
<b>Ombudsman notifications</b>	88	16
<b>Applicants who had a workplace record assessed</b>	336	163
<b>Workplace records migrated from the previous system</b>	2140	N/A

## 4. Policy and legal

### 4.1 Policy and legal – general

The policy and legal team provides advice and support to the Children's Guardian in the exercise of her functions as set out in section 181 of the *Children and Young Persons (Care and Protection) Act 1998*. The team ensures that legislative and policy frameworks are developed that support the operations of the Office of the Children's Guardian.

This work includes providing ministerial and parliamentary support to the minister and other government agencies, as required, preparing Cabinet Submissions and drafting instructions on legislative matters affecting the Children's Guardian. The policy and legal team provides advice to directorates within the Office of the Children's Guardian to support internal operations. Advice is provided in relation to accreditation, Working With Children Check matters, reviews by the NSW Civil and Administrative Tribunal on Working With Children Check matters, child safe organisations and children's employment.

The policy and legal team also works with other government agencies and peak bodies on policy and legal issues. Members of the team liaise with the Crown Solicitor's Office on complex legal advices and matters before the NSW Civil and Administrative Tribunal. In 2014-15 the development of revised standards for statutory out-of-home care involved input from the policy and legal team.

The inquiries of the Royal Commission into Institutional Responses to Child Sexual Abuse continue to inform our work. The Children's Guardian has made several submissions to the royal commission and has responded to requests for information from the royal commission. The policy and legal team provides support for the Children's Guardian in the preparation of advice, responses to summons, and statements. This work is ongoing and findings from the royal commission are monitored to ensure that the Children's Guardian addresses relevant issues.

### 4.2 Recommendations for legislative and administrative change

The *Children and Young Persons (Care and Protection) Act 1998* requires the Children's Guardian to report on recommendations made for legislative and administrative changes that the Children's Guardian considers should be made as a result of the exercise of her functions.

#### ***Advice provided to the Minister of Family and Community Services***

In 2014-15, 62 formal briefings were prepared for the Minister for Family and Community Services on issues such as recommendations for legislative and administrative changes. The Children's Guardian met regularly with the minister and staff from the minister's office to provide advice on issues related to her functions.

#### ***Legislative changes made***

In 2014–15, the following pieces of legislation that have variously impacted on the work of the Children's Guardian have commenced.

With effect from 29 October 2014:

- *Child Protection Legislation Amendment Act 2014*
- Child Protection (Working with Children) Amendment Regulation 2014
- Adoption Amendment Regulation 2014
- Children and Young Persons (Care and Protection) Amendment Regulation 2014
- Children and Young Persons (Care and Protection) Further Amendment Regulation 2014
- Children and Young Persons (Care and Protection) Miscellaneous Amendments Regulation 2014.

With effect from 15 June 2015:

- Children and Young Persons (Care and Protection) Amendment (Authorised Carers) Regulation 2015.

### ***Amendments to Working with Children Check legislation***

The changes to the *Child Protection (Working with Children) Act 2012* (new sections 11 and 11A) made by the *Child Protection Legislation Amendment Act 2014* are that:

- Prospective adoptive parents, prospective guardians and adults residing with them now require a Working With Children Check of a volunteer class.

The changes to the *Child Protection (Working with Children) Act 2012* and the *Child Protection (Working with Children) Regulation 2013*, made by the *Child Protection (Working with Children) Amendment Regulation 2014*, are as follows.

- Murder of an adult is now a disqualifying offence (under Schedule 2 of the Act) for working with children (but does not apply retrospectively, only to new working with children applications from 29 October 2014).
- Working With Children Check requirements have been extended to the principal officers of agencies that provide voluntary out-of-home care (registered agencies) under the *Children and Young Persons (Care and Protection) Act 1998* – effective from 31 March 2015.
- Working With Children Check requirements have been extended to members of the governing bodies of registered agencies and accredited out-of-home care and adoption agencies – effective from 31 March 2015.
- The Children's Guardian can now require self-employed people to comply with Working With Children Check requirements in advance of their scheduled compliance dates (i.e. the date of expiry of the self-employed certificate or phase in date), in the same manner as the Children's Guardian can require employed persons, volunteers and adult residents to comply with the Working With Children Check requirements. This will be done where the Office of the Children's Guardian is provided information that suggests that a person should be risk assessed.
- All pre-existing principal officers of accredited out-of-home care and adoption service agencies were required to comply with Working With Children Check requirements by 31 March 2015 (this was brought forward from the previous phase-in date of 31 March 2016).
- The Children's Guardian is now able to apply barring decisions to people who would not otherwise be required to comply with Working With Children Check requirements due to phase-in arrangements.
- Phase-in dates currently applicable do not apply to people who are disqualified, interim barred, whose clearance was cancelled or whose application was refused.
- Adult household members of an authorised carer are exempt from Working With Children Check requirements where the carer's authorisation is suspended (this will enable barred household members to live with carers where there are no children and young people in out-of-home care living with the carer).
- Adult household members of an authorised carer, and the relevant designated agency, are exempt from the offence provisions of the Act for 48 hours after the household member ceases to be authorised to live at a home where care is provided. This recognises that it takes some time to remove an adult resident or a child from a home.
- Reporting bodies are not required to provide misconduct findings made before 3 July 1995 to the Office of the Children's Guardian, unless otherwise directed by the Children's Guardian. These older misconduct findings may still, at a reporting body's discretion, be provided to the Children's Guardian. This clause will expire in 12 months, 29 October 2015. Consultation is underway to determine appropriate arrangements for older misconduct findings.

### ***Amendments impacting on other functions of the Children's Guardian***

The *Adoption Amendment Regulation 2014* and the *Children and Young Persons (Care and Protection) Miscellaneous Amendments Regulation 2014*, effective from 29 October 2014, made changes relevant to the *Child Protection Legislation Amendment Act 2014*, which also commenced on 29 October 2014.

The changes impacted on the accreditation and monitoring of domestic and inter-country service providers and established an accreditation framework for non-government adoption service providers that is integrated with the accreditation framework for designated agencies that provide out-of-home care. Both Regulations made changes to

the provisions dealing with extension of accreditation to allow alignment of accreditation periods whenever there are significant changes to the administration of either out-of-home care or adoption.

The following was published in the NSW Government Gazette, commencing on the date of publication.

- Adoption Standards Order 2014 (under s 13(1) of the Adoption Act 2000). The object of the Order is to approve the NSW Adoption Standards published on the Office of the Children's Guardian website (published in NSW Government Gazette on 29 October 2014)
- Adoption Approved Identity Information Amendment Order 2014 (under clause 3 of the Adoption Regulation 2003). The object of the Order is to prescribe the approved identity information for specified classes of person that has been approved by the Children's Guardian (published in NSW Government Gazette on 30 October 2014)
- Children and Young Persons (Care and Protection) Approved Identity Information Order 2014 (under clause 3 of the Children and Young Persons (Care and Protection) Regulation 2012). The object of the Order is to prescribe the approved identity information for specified classes of person that have been approved by the Children's Guardian (published in NSW Government Gazette on 29 October 2014).

A summary of changes to the *Adoption Act 2000* (made by the *Child Protection Legislation Further Amendment Act 2014*) and the *Adoption Regulation 2003* (made by the *Adoption Amendment Regulation 2014*) impacting on the functions of the Children's Guardian are as outline below.

### ***Amendments to the Adoption Act 2000***

- Adoption services may only be provided by the Secretary for the Department of Family and Community Services or an organisation accredited by the Children's Guardian to provide adoption services (Family and Community Services is not required to be accredited to provide adoption services).
- A charitable or non-profit organisation may apply to the Children's Guardian for accreditation as an adoption service provider that may provide services specified by the Children's Guardian.
- The Children's Guardian is to monitor the provision of adoption services provided by the secretary and accredited adoption service providers.
- The minister may, on the recommendation of the Children's Guardian, approve standards and criteria to be used in determining whether to accredit an adoption service provider and the period for which accreditation is to be granted (the minister made this approval in signing the Adoption Standards Order 2014).
- The Secretary for Family and Community Services or appropriate principal officer must not assess a person as suitable to be approved to adopt a child unless the person and every adult person who resides with the person has a Working With Children Check clearance or is exempted from the requirement to have such a clearance. This requirement is mirrored in the *Child Protection (Working with Children) Act 2012* by requiring that prospective adoptive parents and adults residing with them must apply for working with children check clearance of a volunteer class.

### ***Amendments to the Adoption Regulation 2003***

The Children's Guardian accredits adoption service providers, and the new accreditation scheme is similar to the accreditation framework for statutory out-of-home care. This integration will allow an agency that wishes to provide out-of-home care and adoption services to go through a single accreditation process and to have common accreditation periods for both services (see section 2.2).

Under the new adoption accreditation scheme the Children's Guardian may:

- accredit a non-government adoption service provider to provide domestic adoption services, inter-country adoption services or both for a period of one, three or five years, depending on the circumstances of the agency
- authorise an organisation to take over an application for accreditation as an adoption service provider made by another organisation
- grant full accreditation or provisional accreditation to an adoption service provider
- authorise the transfer of accreditation from an accredited adoption service provider to another organisation

- defer a decision to renew an agency's accreditation, extend an agency's period of accreditation, shorten, suspend or cancel an agency's accreditation, impose conditions on an agency's accreditation
- inspect records for the purposes of exercising its adoption accreditation and monitoring functions and Working With Children Check functions.

The Children's Guardian must:

- inform the applicant of the accreditation decision and other matters including the reasons for the decision, any conditions imposed, any criteria that were not satisfied and the reasons for the Children's Guardian's opinion
- publish information on the Office of the Children's Guardian website regarding the accreditation of an adoption service provider, including the name of the agency, the full name of the principal officer, contact details for the agency, the terms of the agency's accreditation, the types of service the agency may provide and any conditions imposed on the agency's accreditation.

### ***The Adoption Amendment Regulation 2014***

The amended Regulation:

- provides for the NSW Civil and Administrative Tribunal to review the Children's Guardian's decisions relating to adoption accreditation
- preserves existing adoption accreditation programs for currently accredited adoption service providers
- rationalises statutory conditions of adoption accreditation and aligns them with statutory conditions of out-of-home care accreditation
- requires adoption service providers to inform people who express interest in adoption about applying to be an authorised carer, to encourage concurrent out-of-home care and adoption approvals for the adoption of children and young people in out-of-home care
- provides a framework for the selection of authorised carers as prospective adoptive parents for children and young people in their care
- makes suitability assessment reforms which includes obtaining approved identity information (as per the Adoption Approved Identity Information Amendment Order 2014), nationwide criminal record check, Community Services Check (and other information under cl 11A of the Adoption Regulation 2003)
- provides for a single set of common suitability checks when a person concurrently applies to be an authorised carer and a prospective adoptive parent
- requires principal officers of accredited adoption service providers to be subject to various nominated checks with appointments to be on an acting basis till the checks are done and accredited service provider governing bodies to certify to the Children's Guardian and Family and Community Services that the checks have been done;
- aligns minimum suitability check requirements for prospective adoptive parents and their household members with those that apply to carers and their household members when the NSW Carers Register commences.

The Children and Young Persons (Care and Protection) Miscellaneous Amendments Regulation 2014 makes changes supporting the integration of the out-of-home care and adoption accreditation frameworks.

It also makes provision for suitability assessments for people who seek new guardianship orders and their household members. This aligns with assessments for prospective adoptive parents and authorised carers and their household members, which includes various checks, a home inspection and a review of the out-of-home care placement if the child or young person is in out-of-home care. Before a guardianship order is made, a suitability statement is required to confirm that the necessary checks have been completed, including compliance with Working With Children Check requirements. These must be provided by the assessment body to the Children's Court.

The changes to the Children and Young Persons (Care and Protection) Regulation 2012 made by the Children and Young Persons (Care and Protection) Further Amendment Regulation 2014 also impact on the *Child Protection Legislation Amendment Act 2014*. These include changes to the administration of psychotropic drugs to children in statutory out-of-home care. This will require an authorised carer to notify the designated agency that has supervisory



responsibility for the child if a medical practitioner prescribes such drugs and the principal officer to prepare and approve a behaviour support plan for the child.

### ***Establishment of the NSW Carers Register***

The Children and Young Persons (Care and Protection) Amendment (Authorised Carers) Regulation 2015 established the NSW Carers Register and specified the information required to be put on the register by designated agencies. This Regulation also provided for the assessment of the suitability of people to be authorised carers, the provisional and emergency authorisation of authorised carers, the cancellation and suspension of authorisations and the transfer of authorisations from designated agencies to the Department of Family and Community Services.

### ***Proposed (currently pending) legislation***

The Child Protection Legislation Amendment Bill 2015 was introduced into the Legislative Assembly on 3 June 2015 and was passed by the Legislative Assembly with amendments on 24 June 2015. The Bill was introduced into the Legislative Council on 24 June 2015 and has been set down as an order of the day for the first sitting day in the spring session.

The repeal of the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010 was postponed from 1 September 2015 to 1 September 2016. It is anticipated that a new regulation will be finalised by the end of 2015. The draft regulation is in preparation and the regulatory impact statement is in the final stages of development. Consultation will take place before the regulation is finalised.

### ***Administrative changes made***

#### ***NSW standards for statutory out-of-home care***

In 2014-15 the policy and legal team worked with the accreditation team to prepare revised standards, bringing together the NSW standards for statutory out-of-home care and adoption. The revised standards were provided to the sector for feedback and piloted with Barnardos Australia (see section 2.2).

Feedback from the sector was largely positive and respondents indicated that accreditation requirements continue to be relevant and reasonable. The pilot indicated that the standards are appropriate to both out-of-home care and adoption service provision.

A second draft of the standards has been prepared, taking into account sector feedback, and will be provided to the sector for final consultation. The revised standards will enhance the sector's capacity to provide permanent placements for children and young people.

The accreditation and monitoring team will develop a monitoring framework to support the revised standards. It is anticipated that revised standards will be approved by the minister and ready to be implemented in late 2015.

### ***Submissions, comment and advice prepared for other agencies and government inquiries***

#### ***Royal commission***

In 2014-15 the Children's Guardian responded to six summonses from the Royal Commission into Institutional Responses to Child Sexual Abuse and provided a statement to the royal commission for its inquiry into allegations of child sexual assault by teachers against students of Knox Grammar School. The statement can be found on the Royal Commission's website [www.childabuseroyalcommission.gov.au/exhibits/6202742a-5e8d-490b-bec4-84876bef3de0/case-study-23.-february-2015.-sydney](http://www.childabuseroyalcommission.gov.au/exhibits/6202742a-5e8d-490b-bec4-84876bef3de0/case-study-23.-february-2015.-sydney)

The policy and legal team closely monitors the work of the royal commission. The Children's Guardian attends regular meetings with Family and Community Services to discuss relevant findings of the royal commission.

Many of the legislative changes included in the proposed Child Protection Legislation Amendment Bill 2015 are the result of, and reflect, royal commission findings.



### ***Department of Family and Community Services***

On 3 June 2015, the Department of Family and Community Services released a regulatory impact statement and consultation draft Adoption Regulation 2015, which is intended to replace the Adoption Regulation 2003. A submission was prepared by the policy and legal team, with input from the accreditation team. The submission is available at <http://www.kidsguardian.nsw.gov.au/publications-and-resources/submissions>.

### ***Australian Children's Commissioners and Guardians***

The Children's Guardian is a member of the Australian Children's Commissioners and Guardians forum. The forum aims to strengthen the quality and effectiveness of strategic advocacy to promote and protect the safety, wellbeing and rights of children in Australia, particularly the most vulnerable or disadvantaged.

Membership is restricted to those whose office or position of Commissioner or Guardian was established by Australian state, territory or Commonwealth legislation and who have a sole focus on promoting and/or protecting the rights, interests and wellbeing of children and young people within their jurisdiction.

The forum meets twice a year to share information, research and discuss ideas and identify opportunities for collaborative action, particularly in relation to matters of mutual interest or national significance. The forum releases a communiqué after each meeting. The policy and legal team provides support to the Children's Guardian in her role as a member of the forum and participates in its research and policy work.

### ***Improving the evidence base for risk assessments for the Working With Children Check***

In August 2014 the Children's Guardian commissioned the Australian Institute of Criminology to review the current literature relevant to making decisions under sections 17 and 18 of the *Child Protection (Working with Children) Act 2012*.

In October 2014 the Australian Institute of Criminology provided a report addressing the following six issues (as identified in the request for services and project scope).

1. How sexual offending against adults translates to risks of offending against children.
2. Evaluations of the effectiveness of the risk assessment tools (namely Static-99, RSVP and MMPI) used by psychologists to predict the risk of offending, against children and young people in particular, including any limitations of such tools.
3. Current research looking at recidivism of sexual and/or violent offending over a lifetime.
4. The effectiveness of treatment programs for sexual and violent offenders and whether these programs are more effective for juvenile or adult offenders.
5. Current research as to the likelihood of recidivism due to the maturation of the offender.
6. Results based on empirical research of offending patterns over time and the factors that tend to suggest the risk of future offending.

The evidence in the draft report supports the current approach to risk assessment of the Office of the Children's Guardian, particularly regarding the time elapsed since last offence and the consideration of juvenile offences.

In 2014–15 the policy and legal team continued with the audit of 727 Working With Children Check clearances issued in the first twelve months of the scheme. This work is due for completion in 2015–16.

## **4.3 NSW Child Sex Offender Counsellor Accreditation Scheme**

At 30 June 2015 there were 34 accredited NSW Child Sex Offender Counsellor Accreditation Scheme counsellors. Of these, eight were accredited at supervisor level, 18 at clinical level and eight at associate level. Most members are psychologists (61%) or social workers (30%). Twenty-nine applications for accreditation or renewal were considered during the year.

### ***Implementing the findings of the review of the Child Sex Offender Counsellor Accreditation Scheme***

As reported in the 2013-14 annual report, the Office of the Children's Guardian commissioned an independent review of the accreditation scheme in February 2014. The final report was received in July 2014.

The consultants were asked to consider and make recommendations on:

- the ongoing need for the Child Sex Offender Counsellor Accreditation Scheme and compliance with the scheme
- benefits, risks and costs associated with the scheme to the community, the Office of the Children's Guardian and scheme participants
- the appropriateness of the scheme's placement within the Office of the Children's Guardian
- whether the existing regulatory framework, particularly voluntary accreditation, remains appropriate
- scheme procedures and requirements, including the appropriateness of listing of scheme members on the website
- governance of the scheme, including panel procedures, in accordance with the NSW Government Boards and Committees Guidelines
- related schemes and alternate options for regulating scheme members
- any related matter that arises in the course of the review, in consultation with the Office of the Children's Guardian.

### ***Key findings from the review***

The review found stakeholder support for a mechanism that identifies practitioners with appropriate skills in working with child sex offenders.

The main finding of the review was the strong support for the online listing of accredited practitioners. The main users of the list were government agencies and courts. The main risks identified in the review were related to scheme's design and procedures and resources available to support its implementation.

There were mixed views about whether the scheme was appropriately located within the Office of the Children's Guardian. Government agencies supported the current location (based on the Children's Guardian's independence and child protection functions) whereas some private practitioners considered that practitioners should be regulated by the professions.

In exploring the appropriateness of the regulatory framework it was noted that voluntary accreditation was contingent on government agencies requiring staff to be accredited. The report noted that the two main government employers of scheme members have changed their policy on requiring accreditation of their employees and now encourage rather than require staff to be accredited.

The review proposed four alternative options for the accreditation scheme as well as recommendations for improving the governance and procedures of the existing arrangements.

The alternative options are as follows:

- option 1: Mandatory accreditation scheme led by government
- option 2: Government agencies responsible for accrediting practitioners
- option 3: The scheme to certify community-based practitioners only
- option 4: Industry verification of competency.

Work has begun on a proposal for government. The review also made recommendations to support the administration of the accreditation scheme. These are being progressively implemented.

In February 2015, the Children's Guardian approved changes to the interim arrangements for the ongoing administration of accreditation scheme.

The scheme's expert panel was replaced by an advisory committee established under provisions in section 183 of the *Children and Young Persons (Care and Protection) Act 1998*. The new committee will set accreditation standards and will meet once a year to review the standards.

New procedures were introduced whereby applications for accreditation are considered in March and September each year and assessed by the Office of the Children's Guardian against the accreditation criteria. Recommendations are then made to the Children's Guardian. These arrangements will continue until an advisory committee is established, and accreditation standards are revised.

## Appendices

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## Appendix A: Our financial statements



### INDEPENDENT AUDITOR'S REPORT

#### Office of the Children's Guardian

To Members of the New South Wales Parliament

I have audited the accompanying financial statements of the Office of the Children's Guardian (the Office), which comprise the statement of financial position as at 30 June 2015, the statement of comprehensive income, statement of changes in equity, statement of cash flows and summary of compliance with financial directives for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information.

#### Opinion

In my opinion the financial statements:

- give a true and fair view of the financial position of the Office as at 30 June 2015, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the Public Finance and Audit Regulation 2015.

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

#### Children Guardian's Responsibility for the Financial Statements

The Children's Guardian is responsible for the preparation of the financial statements that give a true and fair view in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Children's Guardian determines is necessary to enable the preparation of financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

#### Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I conducted my audit in accordance with Australian Auditing Standards. Those standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including an assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Office's preparation of the financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

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


My opinion does *not* provide assurance:

- about the future viability of the Office
- that it carried out its activities effectively, efficiently and economically
- about the effectiveness of the internal control
- 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 other information that may have been hyperlinked to/from the financial statements.

### **Independence**

In conducting my audit, I have complied with the independence requirements of the Australian Auditing Standards and relevant ethical pronouncements. The PF&A Act further promotes independence 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, but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by the possibility of losing clients or income.



Karen Taylor  
Director, Financial Audit Services

28 September 2015  
SYDNEY

**OFFICE OF THE CHILDREN'S GUARDIAN****Statement by the Children's Guardian**

Pursuant to Section 45F(1B) of the *Public Finance and Audit Act 1983*, I state that to the best of my knowledge and belief:

- (a) the accompanying financial statements have been prepared in accordance with applicable Australian Accounting Standards, other authoritative pronouncements of the Australian Accounting Standards Board, Urgent Issues Group Consensus Views, the requirements of the *Public Finance and Audit Act 1983* and the *Public Finance and Audit Regulation 2015*, the Financial Reporting Code for Budget Dependant General Government Sector Agencies and Treasurer's Directions.
- (b) the financial statements exhibit a true and fair view of the financial position of the Office of the Children's Guardian as at 30 June 2015 and the financial performance for the period 1 July 2014 to 30 June 2015;
- (c) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



**Kerry Boland**  
**Children's Guardian**

**Dated:** 25/9/15

**Office of the Children's Guardian**

**Financial Statements  
for the year ended 30 June 2015**



**Office of the Children's Guardian  
Statement of comprehensive income  
for the year ended 30 June 2015**

	Notes	Actual 2015 \$'000	Budget 2015 \$'000	Actual 2014 \$'000
<b>Expenses excluding losses</b>				
Operating expenses				
Employee related expenses	2(a)	12,582	12,473	11,726
Other operating expenses	2(b)	13,771	10,556	16,474
Depreciation and amortisation expenses	2(c)	855	783	912
Grants and subsidies	2(d)	350	350	409
<b>TOTAL EXPENSES EXCLUDING LOSSES</b>		<b>27,558</b>	<b>24,162</b>	<b>29,521</b>
<b>Revenue</b>				
Recurrent appropriations	3(a)	10,061	10,079	3,654
Capital appropriations	3(a)	864	1,373	-
Sale of goods and services	3(b)	14,788	12,414	18,588
Investment income	3(c)	142	205	142
Grants and contributions	3(d)	-	-	6,753
Acceptance by the Crown Entity of employee benefits and other liabilities	3(e)	508	475	1,080
Other revenue	3(f)	44	-	6
<b>Total Revenue</b>		<b>26,407</b>	<b>24,546</b>	<b>30,223</b>
<b>Other gains / (losses)</b>		<b>(62)</b>	<b>-</b>	<b>-</b>
<b>Net Result</b>		<b>(1,213)</b>	<b>384</b>	<b>702</b>
<b>Other comprehensive income</b>				
<b>Total other comprehensive income</b>		<b>-</b>	<b>-</b>	<b>-</b>
<b>TOTAL COMPREHENSIVE INCOME FOR THE YEAR</b>		<b>(1,213)</b>	<b>384</b>	<b>702</b>

The accompanying notes form part of these financial statements.

**Office of the Children's Guardian**  
**Statement of financial position**  
**as at 30 June 2015**

		Actual 2015 \$'000	Budget 2015 \$'000	Actual 2014 \$'000
	Notes			
<b>ASSETS</b>				
<b>Current Assets</b>				
Cash and cash equivalents	4	5,605	6,864	6,819
Receivables	5	1,477	735	2,685
<b>Total Current Assets</b>		<b>7,082</b>	<b>7,599</b>	<b>9,504</b>
<b>Non-Current Assets</b>				
Plant and Equipment		303	813	306
Leasehold improvements		938	-	236
Total Plant and Equipment	6	1,241	813	542
Intangible assets	7	907	2,150	1,403
<b>Total non-current assets</b>		<b>2,148</b>	<b>2,963</b>	<b>1,945</b>
<b>Total assets</b>		<b>9,230</b>	<b>10,562</b>	<b>11,449</b>
<b>LIABILITIES</b>				
<b>Current Liabilities</b>				
Payables	8	1,759	2,254	2,977
Provisions	9	1,412	1,145	1,276
Other		-	323	-
<b>Total current liabilities</b>		<b>3,171</b>	<b>3,722</b>	<b>4,253</b>
<b>Non-Current Liabilities</b>				
Provisions	9	88	4	12
<b>Total non-current liabilities</b>		<b>88</b>	<b>4</b>	<b>12</b>
<b>Total liabilities</b>		<b>3,259</b>	<b>3,726</b>	<b>4,265</b>
<b>Net assets</b>		<b>5,971</b>	<b>6,836</b>	<b>7,184</b>
<b>EQUITY</b>				
Accumulated funds		5,971	6,836	7,184
<b>Total Equity</b>		<b>5,971</b>	<b>6,836</b>	<b>7,184</b>

The accompanying notes form part of these financial statements.

**Office of the Children's Guardian  
Statement of changes in equity  
for the year ended 30 June 2015**

	Note	Accumulated Funds \$'000	Total \$'000
<b>Balance at 1 July 2014</b>		<b>7,184</b>	<b>7,184</b>
<b>Net result for the year</b>		<b>(1,213)</b>	<b>(1,213)</b>
<b>Total other comprehensive income</b>		<b>-</b>	<b>-</b>
<b>Total comprehensive income for the year</b>		<b>(1,213)</b>	<b>(1,213)</b>
<b>Increase / (decrease) in net assets from equity transfers</b>		<b>-</b>	<b>-</b>
<b>Balance at 30 June 2015</b>		<b>5,971</b>	<b>5,971</b>

		Accumulated Funds \$'000	Total \$'000
<b>Balance at 1 July 2013</b>		<b>1,841</b>	<b>1,841</b>
<b>Net result for the year</b>		<b>702</b>	<b>702</b>
<b>Total other comprehensive income</b>		<b>-</b>	<b>-</b>
<b>Total comprehensive income for the year</b>		<b>702</b>	<b>702</b>
<b>Transaction with owners in their capacity as owners</b>			
<b>Increase / (decrease) in net assets from equity transfers</b>	10	<b>4,641</b>	<b>4,641</b>
<b>Balance at 30 June 2014</b>		<b>7,184</b>	<b>7,184</b>

**Office of the Children's Guardian  
Statement of cash flows  
for the year ended 30 June 2015**

	Notes	Actual 2015 \$'000	Budget 2015 \$'000	Actual 2014 \$'000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
<b>Payments</b>				
Employee related		(11,815)	(11,800)	(10,403)
Grants and subsidies		(350)	(350)	-
Other		(16,666)	(11,506)	(17,082)
<b>Total Payments</b>		<b>(28,831)</b>	<b>(23,656)</b>	<b>(27,485)</b>
<b>Receipts</b>				
Recurrent appropriation		10,061	10,079	3,334
Capital appropriation		864	1,373	-
Interest received		181	205	51
Sale of goods and services		14,788	12,414	18,588
Grants received		-	-	6,753
Other		2,770	1,273	227
<b>Total Receipts</b>		<b>28,664</b>	<b>25,344</b>	<b>28,953</b>
<b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>	14	<b>(167)</b>	<b>1,688</b>	<b>1,468</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
Purchases of plant and equipment		(1,047)	(189)	(345)
Other		-	(1,671)	-
<b>NET CASH FLOWS FROM INVESTING ACTIVITIES</b>		<b>(1,047)</b>	<b>(1,860)</b>	<b>(345)</b>
<b>NET INCREASE (DECREASE) IN CASH</b>				
Opening cash and cash equivalents		(1,214)	(172)	1,123
Cash transferred in (out) as a result of administrative restructuring	10	6,819	7,036	2,889
		-	-	2,807
<b>CLOSING CASH AND CASH EQUIVALENTS</b>	4	<b>5,605</b>	<b>6,864</b>	<b>6,819</b>

The accompanying notes form part of these financial statements.

**Office of the Children's Guardian**  
**Summary of compliance with financial directives**  
**for the year ended 30 June 2015**

Consolidated	2015			2014		
	Recurrent Appropriation \$'000	Expenditure / Net Claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure / Net Claim on Consolidated Fund \$'000	Recurrent Appropriation \$'000	Expenditure / Net Claim on Consolidated Fund \$'000
<b>ORIGINAL BUDGET APPROPRIATION / EXPENDITURE</b>						
• Appropriation Act	10,079	10,061	1,373	864	-	-
• s 24 PF&AA - transfers of functions between departments	-	-	-	-	3,654	-
	10,079	10,061	1,373	864	3,654	-
<b>Total Appropriations / Expenditure / Net Claim on Consolidated Fund (includes transfer payments)</b>	10,079	10,061	1,373	864	3,654	-
<b>Amount drawn down against Appropriation</b>		10,061		864		
<b>Liability to Consolidated Fund*</b>		-		-		-

The Summary of Compliance is based on the assumption that Consolidated Fund monies are spent first (except where otherwise identified or prescribed).

\* The "Liability to Consolidated Fund" represents the difference between the "Amount drawn down against Appropriation" and the "Total Expenditure / Net Claim on Consolidated Fund" for the year.

## 1 Summary of Significant Accounting Policies

### (a) Reporting entity

The Office of the Children's Guardian (the Office) is a reporting entity and is consolidated as part of the NSW Total State Sector Accounts.

The Public Sector Employment and Management (Children's Guardian and other matters) Order 2013 established the Office of the Children's Guardian as a Division of the Government Service responsible to the Minister For Family and Community Services. The order was dated 15 May 2013 and was effective on the 17 May 2013.

The group of staff employed in the Department of Education and Communities to enable the Children's Guardian to exercise the functions of the Children's Guardian were removed from that Department and added to the Office of the Children's Guardian.

The Office is a not for profit entity (as profit is not its principal objective) and it has no cash generating units. The financial report for the period ended 30 June 2015 has been authorised for issue by the Children's Guardian on 25 September 2015.

### (b) Basis of preparation

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

- applicable Australian Accounting Standards (which include Australian Accounting interpretations);
- the requirements of the *Public Finance and Audit Act 1983 and Public Finance and Audit Regulation 2015 and*
- the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer.

Plant and equipment are measured at fair value. Other financial statement items are prepared in accordance with the historical cost convention except where specified otherwise.

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.

### (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 agency as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the cost of acquisition of an asset 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 cash flow statement 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) Income recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Comments regarding the accounting policies for the recognition of income are discussed below.

**Office of the Children's Guardian  
Notes to the financial statements  
for the year ended 30 June 2015**

**1 Summary of Significant Accounting Policies (cont'd)**

(e) *Income recognition (cont'd)*

(i) Parliamentary appropriations and contributions

Except as specified below, parliamentary appropriations and contributions from other bodies (including grants and donations) are generally recognised as income when the Office obtains control over the assets comprising the appropriations / contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash.

Appropriations are not recognised as income in the following circumstance:

- Unspent appropriations are recognised as liabilities rather than income, as the authority to spend the money lapses and the unspent amount must be repaid to the Consolidated Fund.

(ii) Sale of goods

Revenue from the sale of goods is recognised as revenue when the Office transfers the significant risks and rewards of ownership of the assets.

(iii) Rendering of services

Revenue is recognised when the service is provided or by reference to the stage of completion (based on labour hours incurred to date).

(iv) Investment revenue

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

(f) *Assets*

(i) Acquisitions of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the Office. 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, i.e. deferred payment amount is effectively discounted over the period of credit.

(ii) Capitalisation thresholds

Plant and equipment and intangible assets costing \$5,000 [or amount determined by the agency] and above individually (or forming part of a network costing more than \$5,000) are capitalised.

(iii) Revaluation of 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 14-01). This policy adopts fair value in accordance with AASB 13 *Fair Value Measurement* and AASB 116 *Property, Plant and Equipment*.

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.

# **1 Summary of Significant Accounting Policies (cont'd)**

## **(f) Assets (cont'd)**

### **(iv) Impairment of 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.

### **(v) Depreciation of 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 separately identifiable components of assets are depreciated over their shorter useful lives.

<b>Depreciation Rates</b>	<b>2015 % Rate</b>
<b>Plant &amp; Equipment</b>	
Office furniture and fittings	14
Computer equipment and software	14-25
Leasehold improvements - over the period of the lease	

### **(vi) Restoration costs**

The estimated cost of dismantling and removing an asset and restoring the site is included in the cost of an asset, to the extent it is recognised as a liability.

### **(vii) Maintenance**

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

### **(viii) Leased assets**

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of the leased assets, and operating leases under which the lessor does not transfer substantially all the risks and rewards.

Where a non-current asset is acquired by means of a finance lease, at the commencement of the lease term, the asset is recognised at its fair value or, if lower, the present value of the minimum lease payments, at the inception of the lease. The corresponding liability is established at the same amount. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are recognised as an expense on a straight-line basis over the lease term.

### **(ix) Intangible assets**

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.

The useful lives of intangible assets are assessed to be finite.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the agency's intangible assets, the assets are carried at cost less any accumulated amortisation.



Office of the Children's Guardian  
Notes to the financial statements  
for the year ended 30 June 2015

**1 Summary of Significant Accounting Policies (cont'd)**

(f) Assets (cont'd)

(ix) Intangible assets (cont'd)

The Office's intangible assets are amortised using the straight line method over a period of 4 years.

Intangible assets are tested for impairment where an indicator of impairment exists. 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.

(x) Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets 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, less an allowance for any impairment of receivables. Any changes are accounted for in the statement of comprehensive income when impaired, derecognised or through the amortisation process.

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

(g) Liabilities

(i) Payables

These amounts 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.

(ii) Employee benefits and other provisions

(a) Salaries and wages, annual leave, sick leave and on-costs

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 twelve 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 7.9% 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.

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.

(b) Long service leave and superannuation

The Office's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. 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 Entity of employee benefits and other liabilities".

**1 Summary of Significant Accounting Policies (cont'd)**

**(g) Liabilities (cont'd)**

**(ii) Employee benefits and other provisions (cont'd)**

Long service leave is measured at present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSWTC 15/04) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

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 (ie State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

**(c) 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, workers' compensation insurance premiums and fringe benefits tax.

**(iii) Other Provisions**

Other provisions exist 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 the obligation.

**(h) Fair value hierarchy**

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

**(i) Equity**

Accumulated Funds includes all current and prior period retained funds.

**(j) Comparative information**

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

**(k) 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 is explained in Note 13.

**Office of the Children's Guardian  
Notes to the financial statements  
for the year ended 30 June 2015**

**1 Summary of Significant Accounting Policies (cont'd)**

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

i) Effective for the first time in 2014-15

The accounting policies applied in 2014-15 are consistent with those of the previous financial year except for the following standards adopted for the first time in 2014-15. The impact of these Standards in the period of initial application is not material.

- AASB 10 Consolidated Financial Statements
- AASB 1031 Materiality
- AASB 1055 Budgetary Reporting

(ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards, unless Treasury determines otherwise.

The following new Accounting Standards have not been applied and are not yet effective. The Treasury Circular TC15/03 mandates not to early adopt any of the new Accounting Standards and Interpretations

- AASB 9 Financial Instruments (operative 1 Jan 2018)
- AASB 2010-7 Amendments to Australian Accounting Standards arising from AASB 9 (operative 1 Jan 2018)
- AASB 2013-9 regarding the Conceptual Framework, Materiality and Financial Instruments (Part C operative 1 Jan 2015).
- AASB 2014-4 regarding acceptable methods of depreciation and amortisation (operative 1 Jan 2016)
- AASB 2015-1 regarding annual improvements to Australian Accounting Standards 2012 2014 cycle (operative 1 Jan 2016)
- AASB 2015-2 regarding amendments to AASB 101 disclosure initiatives (operative 1 Jan 2016)
- AASB 2015-3 regarding materiality (operative 1 July 2015)
- AASB 2015-6 regarding related party disclosure (operative 1 July 2016)
- AASB 15 regarding revenue from contracts with customers (operative 1 Jan 2017)

Management have assessed the impact of these new standards and interpretations and determined they will not have a material impact on the Commission's financial statements.

Office of the Children's Guardian  
Notes to the financial statements  
for the year ended 30 June 2015

**2 Expenses Excluding Losses**

	2015 \$'000	2014 \$'000
<b>(a) Employee related expenses</b>		
Salaries and wages (including annual leave)	10,276	9,134
Superannuation - defined benefit plans	74	95
Superannuation - defined contribution plans	840	727
Long service leave	486	1,024
Workers compensation insurance	9	118
Payroll tax and fringe benefit tax	640	628
Redundancy Payments	257	-
	<u>12,582</u>	<u>11,726</u>

**(b) Other operating expenses include the following:**

Employment Screening	9,576	11,527
Operating lease rental expense - minimum lease pay	487	916
Corporate services	737	1,002
Contractors	1,404	1,249
Events Management	15	16
Stores and Stationery	91	71
Internal Audit	-	21
Consultancy Costs	310	487
Telephone	92	59
Printing	44	59
Data processing	4	336
Travel	201	95
Auditor's remuneration - audit or review of the fi	44	72
Community education	68	122
Boards, Tribunals and Meetings	23	4
Motor vehicle	40	37
Conference and seminars	54	47
Electricity and cleaning	140	165
Fees	338	95
Other	78	65
Maintenance expenses	25	29
	<u>13,771</u>	<u>16,474</u>

*Reconciliation - Total maintenance*

Maintenance expense - contracted labour and other (non-employee related), as above	25	29
Total maintenance expenses included in Note 2(a) + 2(b)	<u>25</u>	<u>29</u>

**(c) Depreciation and amortisation expense**

<i>Depreciation</i>		
Office Equipment	21	15
Computer Hardware	35	100
Leasehold improvements	113	78
Total Depreciation	<u>169</u>	<u>193</u>
<i>Amortisation</i>		
Intangibles	686	719
	<u>855</u>	<u>912</u>

**(d) Grants and subsidies**

State Grants	350	409
	<u>350</u>	<u>409</u>

Office of the Children's Guardian  
Notes to the financial statements  
for the year ended 30 June 2015

### 3 Revenue

	2015 \$'000	2014 \$'000
<b>(a) Appropriations</b>		
<b>Recurrent appropriations</b>		
Total recurrent draw-downs from NSW Treasury (per Summary of compliance)	10,061	3,654
Less: Liability to Consolidated Fund (per Summary of compliance)	-	-
	<u>10,061</u>	<u>3,654</u>
Comprising:		
Recurrent appropriations (per Statement of comprehensive income)	<u>10,061</u>	<u>3,654</u>
	<u>10,061</u>	<u>3,654</u>
<b>Capital appropriations</b>		
Total capital drawdowns from NSW Treasury (per Summary of compliance)	864	-
Less: Liability to Consolidated Fund (per Summary of compliance)	-	-
	<u>864</u>	<u>-</u>
Comprising:		
Capital appropriations (per Statement of comprehensive income)	<u>864</u>	<u>-</u>
	<u>864</u>	<u>-</u>
<b>(b) Sale of goods and services</b>		
Fees - Working with Children Check	14,423	18,366
Fees - Other	365	222
	<u>14,788</u>	<u>18,588</u>
<b>(c) Investment revenue</b>		
Interest	142	142
	<u>142</u>	<u>142</u>
<b>(d) Grants and contributions</b>		
Grants Received	-	6,753
	<u>-</u>	<u>6,753</u>
<b>(e) Acceptance by the Crown Entity of employee benefits and other liabilities</b>		
Superannuation - defined benefit	74	95
Long Service Leave	431	980
Payroll tax	3	5
	<u>508</u>	<u>1,080</u>
<b>(f) Other revenue</b>		
Recoveries	-	4
Income - Other	44	2
	<u>44</u>	<u>6</u>

**Office of the Children's Guardian  
Notes to the financial statements  
for the year ended 30 June 2015**

**4 Current Assets - Cash and Cash Equivalents**

	2015 \$'000	2014 \$'000
Cash at bank and on hand	5,605	6,819
	<u>5,605</u>	<u>6,819</u>

For the purposes of the Statement of cash flows, cash and cash equivalents include cash at bank, cash on hand, short term deposits and 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 (statement of financial position)	5,605	6,819
Closing cash and cash equivalents (per statement of cash flows)	<u>5,605</u>	<u>6,819</u>

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

**5 Current Assets – Receivables**

**Current Receivables**

Sale of goods and services	42	389
Interest	62	101
Employee advances	1	16
Goods and Services Tax recoverable from ATO	169	741
Other receivables	1,135	1,438
Prepayments	68	-
	<u>1,477</u>	<u>2,685</u>

**6 Non-Current Assets - Plant and Equipment**

	Plant and Equipment \$'000	Leasehold improvements \$'000	Total \$'000
<b>At 1 July 2014 - fair value</b>			
Gross Carrying amount	1,083	1,679	2,762
Accumulated depreciation and impairment	(777)	(1,443)	(2,220)
Net carrying amount	<u>306</u>	<u>236</u>	<u>542</u>
<b>At 30 June 2015 - fair value</b>			
Gross carrying amount	1,082	2,494	3,576
Accumulated depreciation and impairment	(779)	(1,556)	(2,335)
Net carrying amount	<u>303</u>	<u>938</u>	<u>1,241</u>

**Reconciliation**

A reconciliation of the carrying amount of each class of property, plant and equipment at the beginning and end of the current reporting period is set out below.

**Year ended 30 June 2015**

Net carrying amount at start of year	306	236	542
Additions	151	815	966
Disposals	(55)	-	(55)
Acquisitions through administrative restructures	2	-	2
Write-back on disposals	55	-	55
Transfers to other asset	(100)	-	(100)
Depreciation expense	(56)	(113)	(169)
Net carrying amount at end of year	<u>303</u>	<u>938</u>	<u>1,241</u>

Office of the Children's Guardian  
Notes to the financial statements  
for the year ended 30 June 2015

**6 Non-Current Assets – Plant and Equipment (cont'd)**

	Plant and Equipment \$'000	Leasehold improvements \$'000	Total \$'000
<b>At 1 July 2013 - fair value</b>			
Gross carrying amount	153	337	490
Accumulated depreciation and impairment	(144)	(337)	(481)
Net carrying amount	9	-	9
<b>At 30 June 2014 - fair value</b>			
Gross carrying amount	1,083	1,679	2,762
Accumulated depreciation and impairment	(777)	(1,443)	(2,220)
Net carrying amount	306	236	542

A reconciliation of the carrying amount of each class of plant and equipment at the beginning and end of the previous reporting period is set out below.

	Plant and Equipment \$'000	Leasehold improvements \$'000	Total \$'000
<b>Year ended 30 June 2014</b>			
Net carrying amount at start of year	9	-	9
Additions	252	46	298
Acquisitions through administrative restructures	160	493	653
Re-classification	-	(225)	(225)
Depreciation expense	(115)	(78)	(193)
Net carrying amount at end of year	306	236	542

**7 Intangible Assets**

	Software \$'000	Total \$'000
<b>At 1 July 2014</b>		
Cost (gross carrying amount)	4,002	4,002
Accumulated amortisation and impairment	(2,599)	(2,599)
Net carrying amount	1,403	1,403
<b>At 30 June 2015</b>		
Cost (gross carrying amount)	4,192	4,192
Accumulated amortisation and impairment	(3,285)	(3,285)
Net carrying amount	907	907
<b>Year ended 30 June 2015</b>		
Net carrying amount at start of year	1,403	1,403
Additions	143	143
Assets transferred out through administrative restructure	(53)	(53)
Transfers from other assets	100	100
Amortisation (recognised in "depreciation and amortisation")	(686)	(686)
Net carrying amount at end of year	907	907
<b>At 1 July 2013</b>		
Cost (gross carrying amount)	50	50
Accumulated amortisation and impairment	(45)	(45)
Net carrying amount	5	5
<b>At 30 June 2014</b>		
Cost (gross carrying amount)	4,002	4,002
Accumulated amortisation and impairment	(2,599)	(2,599)
Net carrying amount	1,403	1,403
<b>Year ended 30 June 2014</b>		
Net carrying amount at start of year	5	5
Additions	191	191
Re-classification	225	225
Acquisitions through administrative restructures	1,701	1,701
Amortisation (recognised in "depreciation and amortisation")	(719)	(719)
Net carrying amount at end of year	1,403	1,403



Office of the Children's Guardian  
Notes to the financial statements  
for the year ended 30 June 2015

**8 Current Liabilities - Payables**

	2015 \$'000	2014 \$'000
Accrued salaries, wages and on-costs	339	230
Creditors	1,420	2,673
Unearned revenue	-	74
	<u>1,759</u>	<u>2,977</u>

**9 Current / Non-Current Liabilities - Provisions**

**Current**

**Employee benefits and related on-costs**

Annual leave	1,113	1,042
Long service leave on-costs	188	142
Payroll tax on Long service leave	111	92
<b>Total provisions</b>	<u>1,412</u>	<u>1,276</u>

**Non-current**

**Employee benefits and related on-costs**

Long service leave on-costs	16	7
Payroll tax on Long service leave	10	5
	<u>26</u>	<u>12</u>

**Other provisions**

Restoration costs	62	-
<b>Total provisions</b>	<u>88</u>	<u>12</u>

**Aggregate employee benefits and related on-costs**

Provisions - current	1,412	1,276
Provisions - non-current	26	12
Accrued salaries, wages and on-costs (Note 8)	339	230
	<u>1,777</u>	<u>1,518</u>

The annual leave liability of \$1.113 million is assumed to be all taken within 12 months.

**10 Increase / Decrease in Net Assets from Equity Transfers**

**TRANSFERS IN / OUT YEAR ENDED 30 JUNE 2015 - NIL**

**TRANSFERS IN YEAR ENDED 30 JUNE 2014**

Effective 17 May 2013, the net assets of the Office of Communities that related to the Office of Children's Guardian were transferred to the Office of the Children's Guardian, a Division established within Family & Community Services.

In addition to the above, effective from 1 July 2013, the net assets of the Office of Communities that related to the Working with Children Check were also transferred to the Office of the Children's Guardian.

	2014 \$'000
<b>Assets</b>	
<b>Current Assets</b>	
Cash and equivalents	2,807
Receivables	849
<b>Non-Current Assets</b>	
Plant and Equipment	653
Intangibles	1,701
<b>Total Assets</b>	<u>6,010</u>
<b>Liabilities</b>	
Payables	(946)
Employee entitlements	(423)
<b>Total Current Liabilities</b>	<u>(1,369)</u>
<b>Net Assets</b>	<u>4,641</u>



**Office of the Children's Guardian  
Notes to the financial statements  
for the year ended 30 June 2015**

**11 Commitments for Expenditure**

	2015 \$'000	2014 \$'000
<b>(a) Operating Lease Commitments</b>		
Future non-cancellable operating lease rentals not provided for and payable:		
Not later than one year	366	352
Later than one year and not later than five years	-	366
Total (including GST)	<u>366</u>	<u>718</u>

Operating Lease commitments include \$0.033 million (2014: \$0.065 million) GST recoverable from the Australian Tax Office.

**12 Contingent Liabilities and Contingent Assets**

The Office is not aware of any contingent liabilities and / or assets associated with its operations (nil at 30 June 2014).

**13 Budget Review****Net result**

The actual net cost of services was higher than budget by \$1.225 million due to the higher than predicted demand for the Working With Children Check (WWCC).

**Assets and liabilities**

Current assets are lower than budget as a result of decreased cash balances due to the use of cash to fund the higher than budgeted expenses associated with the Working With Children Check (WWCC).

Non-current assets are also lower than budget due to lower than planned expenditure on intangible assets in the 2014-15 financial year. Capital funding provided for the purchase of these assets has been rolled over into 2015-16 financial year.

**14 Reconciliation of Cash Flows from operating activities to net result**

Net cash used on operating activities	(167)	1,468
Depreciation	(855)	(912)
Decrease / (increase) in provisions	(150)	(958)
Increase / (decrease) in prepayments and other assets	(1,197)	2,630
(Increase) / decrease in creditors	1,218	(2,046)
Net adjustments for equity transfers	-	520
Other gains / (losses)	(62)	-
Net result	<u>(1,213)</u>	<u>702</u>

**15 Non-cash financing and investing activities**

Employee entitlements and liabilities assumed by the Crown Entity	(508)	(1,080)
	<u>(508)</u>	<u>(1,080)</u>

**16 Financial Instruments**

The Office's principal financial instruments are outlined below. These financial instruments arise directly from the Office's operations or 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 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 Internal auditors on a continuous basis.

## 16 Financial Instruments (cont'd)

### (a) Financial instrument categories

Financial Assets	Note	Category	Carrying Amount 2015 \$'000	Carrying Amount 2014 \$'000
<b>Class:</b>				
Cash and cash equivalents	4	N/A	5,605	6,819
Receivables <sup>1</sup>	5	Loans and receivables (at amortised cost)	1,240	1,944
<b>Financial Liabilities</b>	<b>Note</b>	<b>Category</b>	<b>Carrying Amount 2015 \$'000</b>	<b>Carrying Amount 2014 \$'000</b>
<b>Class:</b>				
Payables <sup>2</sup>	8	Financial liabilities measured at amortised cost	1,759	2,903

#### Notes

<sup>1</sup> Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7)

<sup>2</sup> Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7)

### (b) 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

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 Office will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors. Sales are made on 30 day terms.

**Office of the Children's Guardian  
Notes to the financial statements  
for the year ended 30 June 2015**

**16 Financial Instruments (cont'd)**

The only financial assets that are past due or impaired are 'sales of goods and services' in the 'receivables' category of the statement of financial position.

	Total <sup>1,2</sup>	\$'000 Past due but not impaired <sup>1,2</sup>	Considered impaired <sup>1,2</sup>	
<b>2015</b>				
< 3 months overdue	33		33	-
3 months – 6 months overdue	9		9	-
> 6 months overdue				-
<b>2014</b>				
< 3 months overdue	368		368	-
3 months – 6 months overdue	21		21	-
> 6 months overdue	-		-	-

**Notes**

<sup>1</sup> Each column in the table reports 'gross receivables'.

<sup>2</sup> The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7 and excludes receivables that are not past due and not impaired. Therefore, the 'total' will not reconcile to the receivables total recognised in the statement of financial position.

**(c) Liquidity risk**

Liquidity risk is the risk that the Office will be unable to meet its payment obligations when they fall due. The Group 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 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. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date 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 small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For 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 2015. (2014: nil)

The table below summarises the maturity profile of the Group's financial liabilities, together with the interest rate exposure.

## 16 Financial Instruments (cont'd)

### Maturity Analysis and interest rate exposure of financial liabilities

	\$'000				
	Interest Rate Exposure		Maturity Dates		
	Nominal Amount <sup>1</sup>	Non-interest bearing	< 1 yr	1-5 yrs	> 5 yrs
<b>2015</b>					
<i>Payables:</i>					
Accrued salaries, wages and on-costs	339	339	339	-	-
Creditors	1,420	1,420	1,420	-	-
	<u>1,759</u>	<u>1,759</u>	<u>1,759</u>	<u>-</u>	<u>-</u>
<b>2014</b>					
<i>Payables:</i>					
Accrued salaries, wages and on-costs	230	230	230	-	-
Creditors	2,673	2,673	2,673	-	-
	<u>2,903</u>	<u>2,903</u>	<u>2,903</u>	<u>-</u>	<u>-</u>

#### Note

- The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities based on the earliest date on which the Office can be required to pay.

#### (d) 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 Office 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 for 2014. The analysis assumes that all other variables remain constant.

#### Interest rate risk

The Office has no interest bearing liabilities. The Office does not account for any fixed rate financial instruments at fair value through profit or loss or as available for sale. Therefore, for these financial instruments, a change in interest rates would not affect profit or loss or equity. 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;

Interest rate volatility. The Office's exposure to interest rate risk is set out below,					
		-1%		1%	
	Carrying Amount	Profit \$'000	Equity \$'000	Profit \$'000	Equity \$'000
<b>2015</b>					
<i>Financial assets</i>					
Cash and cash equivalents	5,605	(56)	(56)	56	56
Receivables	1,240	(13)	(13)	13	13
<i>Financial liabilities</i>					
Payables	<u>1,759</u>	-	-	-	-
<b>2014</b>					
<i>Financial assets</i>					
Cash and cash equivalents	6,819	(68)	(68)	68	68
Receivables	1,944	(19)	(19)	19	19
<i>Financial liabilities</i>					
Payables	<u>2,903</u>	-	-	-	-

Office of the Children's Guardian  
Notes to the financial statements  
for the year ended 30 June 2015

**16 Financial Instruments (cont'd)**

**(e) Fair value measurement**

**(i) 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.

**17 Events after the Reporting Period**

There are no events subsequent to balance date which affect the financial statements.

End of audited financial statements

## Appendix B: Our people

As at 30 June 2015 there were 121 people working for the Office of the Children's Guardian on either a full-time or part time basis. The workforce includes staff with a diverse mix of backgrounds, with a range of working experience including child protection, community and social work, legal practice, policy development and implementation, auditing and compliance, customer service and government services and administration.

The senior executive transitioned to the new requirements of the *Government Sector Employment Act 2013* on 1 December 2014. Comparative data for previous years is therefore not available. The senior executive details for the Office of the Children's Guardian as at 30 June 2015 are listed below.

**Table A1 Average remuneration of senior executives in each band at the end of the reporting year**

Remuneration level	Range	Average remuneration
Band 3	\$305,401–\$439,450	N/A
Band 2	\$242,801–\$305,400	\$282,036
Band 1	\$170,250–\$242,800	\$195,537

**Table A2 Percentage of total employee-related expenditure relating to senior executives**

	2015
Percentage of total employee-related expenditure relating to senior executives	9.23%

**Table A3 Number of senior executives employed at the end of the reporting year, by band and gender**

Remuneration level	Male	Female
Band 3	-	-
Band 2	-	1
Band 1	1	3
<b>Total</b>	<b>5</b>	

**Table A4 Actual number\* of employees by category**

Category	At June 2013	At June 2014	At June 2015
Clerk grade 1/2	8.2	6	8
Clerk grade 3/4	14	28	29
Clerk grade 5/6	3	6	9
Clerk grade 7/8	20.2	30	35
Clerk grade 9/10	15.7	25	24
Clerk grade 11/12	7	11	10
Legal officer grade 4	0	1	1
<b>Total</b>	<b>68.1</b>	<b>107</b>	<b>116</b>

\*These figures exclude senior executive roles

There were no exceptional movements in salaries, wages or allowances.

### **Human resource management policy and practice**

The main focus of the Office of the Children's Guardian human resource practice in 2014–15 has been the implementation of the requirements relating to the *Government Sector Employment Act 2013*. This included the design and planned implementation of the senior executive structure, which was completed by 1 December 2014.

The We are developing new role descriptions that reflect the NSW Capability Framework with approximately 50% completed at 30 June 2015.

Recruitment and selection processes have also been amended in line with the new requirements of the Act. Recruitment processes now include:

- pre-screening questions on applications
- review of resume
- psychometric testing to measure applicant characteristics such as cognitive ability, emotional intelligence and behavioural styles
- work sample exercises
- behavioural and cultural fit interviews
- reference checks targeting focus capabilities.

The Office of the Children's Guardian systematically reviews, updates and develops internal policies and procedures to ensure compliance with legislative requirements and NSW public sector policies and procedures.

During the reporting period the following corporate policies were developed and/or updated:

- Work Health and Safety
- Induction Policy and Resources.

As internal policies are reviewed or developed they are made available to all staff on our intranet and promoted at all staff meetings.

### ***Industrial relations policy and practices***

We established Joint Consultative Committee in 2014–15 to provide a forum for Office of the Children's Guardian and the Public Service Association (PSA) representatives to communicate and consult on general workplace matters that may impact on staff.

There were no industrial issues raised with the Office of the Children's Guardian in its capacity as an employer during the year.

Our employment practices of the Office of the Children's Guardian are in accordance with industrial relations policies and practices contained in government sector legislation and policy documents, namely the Crown Employees (Public Service Conditions of Employment) Award 2009, the Personnel Handbook and Determinations and Directions issued by the Public Service Commission under the *Government Sector Employment Act 2013*, Government Sector Employment Regulation 2014 and the Government Sector Employment Rules 2014.

### ***Work health and safety policy and practice***

Key work health and safety and wellbeing initiatives actioned during 2014-15 include:

- assignment of first aid officers
- a flu vaccination program
- access to an employee assistance program for staff and their immediate family members to provide professional support for a broad range of personal and/or work-related issues.

There was one work health and safety incidents reported during 2014–15.

There were no workers compensation claims during 2014–15.

### ***Overseas visits***

There were no overseas visits by Office of the Children's Guardian staff during 2014–15.



## Appendix C: Workforce diversity

### *Equal employment profile and outcomes*

Under the *Government Sector Employment Act 2013* workforce diversity strategies must be integrated with and agency's workforce planning. The Office of the Children's Guardian is committed to establishing and developing a workforce that draws on the diversity of people of NSW. We recognise that a diverse workforce facilitates a responsive strategy development and assist in building the capability of the workforce to deliver our services to the community.

The representation and distribution of workforce diversity groups as at 30 June 2015 is provided in tables A5 and A6.

During the year the Office of the Children's Guardian took a number of steps to attract, develop and retain a diverse workforce. These included performance management processes and enhanced recruitment processes based on clearly defined capabilities.

During 2015-16 we will further progress the introduction of capabilities in its role descriptions, selection processes and in its performance management systems. We will also review and update a range of human resources policies to support the workforce diversity principles and practices.

**Table A5 Trends in the representation of workforce diversity groups**

Workforce diversity group	Benchmark/ Target	2013	2014	2015
Women	50.0%	88.0%	81.1%	79.3%
Aboriginal people and Torres Strait Islanders	2.6%	0.0%	0.0%	0.0%
People whose first language spoken as a child was not English	19.0%	10.7%	6.3%	16.4%
People with disability	N/A	9.3%	2.7%	1.7%
People with disability requiring work-related adjustment	1.5%	5.3%	0.9%	0.9%

**Table A6 Trends in the distribution of workforce diversity groups**

Workforce diversity group	Benchmark/ Target	2013	2014	2015
Women	100	N/A	98	103
Aboriginal people and Torres Strait Islanders	100	N/A	N/A	N/A
People whose first language spoken as a child was not English	100	N/A	N/A	N/A
People with disability	100	N/A	N/A	N/A
People with disability requiring work-related adjustment	100	N/A	N/A	N/A

*Note 1: A Distribution Index of 100 indicates that the centre of the distribution of workforce diversity group across salary levels is equivalent to that of other staff. Values less than 100 mean that the workforce diversity group tend to be more concentrated at lower salary levels than is the case for other staff. The more pronounced this tendency is, the lower the index will be. In some cases the index may be more than 100, indicating that the workforce diversity group is less concentrated at lower salary levels.*

*Note 2: The Distribution Index is not calculated where workforce diversity group or non-workforce diversity group numbers are less than 20.*

### *Disability plan*

Before its establishment as an independent office in May 2013, the Office of the Children's Guardian, as part of the Office of Communities, was included under the Office of Communities' Disability Action Plan.



During the year we continued to adopt the Office of Communities Disability Action Plan until the new *Disability Inclusion Act 2014* was finalised. During 2015-16 we will develop a new four-year Disability Inclusion Plan to meet the requirements of the new Act.

### ***Multicultural policies and services program***

Prior to its establishment as an independent office in May 2013, the Office of the Children's Guardian was included under Multicultural Policies and Services Plan of the Office of Communities.

During the year we continued to adopt the Office of Communities Multicultural Policies and Services Plan with a new plan for the Office of the Children's Guardian to be finalised in 2015-16.

## **Appendix D: Legislative framework**

The establishment of the Children's Guardian and the functions associated with the Children's Guardian are part of the *Children and Young Persons (Care and Protection) Act 1998* which is allocated to the Minister for Family and Community Services.

At 30 June 2015 the following Act, also allocated to the Minister for Family and Community Services, was administered by the Office of the Children's Guardian:

- *Child Protection (Working With Children) Act 2013.*

## **Appendix E: Public information and access**

### ***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* (GIPA Act), the *Privacy and Personal Information 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 a right to access government information. This right is restricted only when there is an overriding public interest against disclosing the particular 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 Level 13, 418A Elizabeth Street SURRY HILLS NSW 2010

**Telephone enquiries:** (02) 8219 3600; **Email:** [kids@kidsguardian.nsw.gov.au](mailto:kids@kidsguardian.nsw.gov.au).

Further information can be found on our website: [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au).

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

### ***Statistical information 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 ensure that information related to the functions of the Office of the Children's Guardian is available on our website. This includes general information on the role and functions of the Office of the Children's Guardian, such as the operations of the Working With Children Check, accreditation details of agencies providing out-of-home care services, details of authorisations for engaging in the employment of children, and the operations and membership of the Child Sex Offender Counsellor Accreditation Scheme.

During the reporting period, no documents of historical interest were identified for publication on the website.

**Table A7 Number of applications by type of applicant and outcome\***

	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	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	0
Not-for-profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (application by legal representative)	3	2	0	0	0	0	0	1
Members of the public (other)	3	11	0	0	0	0	0	0

*\*More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each decision. This also applies to Table A8.*

**Table A8 Number of applications by type of application and outcome**

	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
Personal information applications*	6	13	0	0	0	0	0	1
Access applications (other than personal information applications)	0	0	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0

**Table A9 Invalid applications**

Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of the Act)	0
Application is for excluded information of the agency (section 43 of the Act)	0
Application contravenes restraint order ( section 110 of the Act)	0
Total number of invalid applications received	0
Invalid applications that subsequently became valid applications	0

**Table A10 Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of Act**

	Number of times consideration used*
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	10
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environment heritage	0

\*More than one interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also relates to Table A11.

**Table A11 Other public interest considerations against disclosure: matters listed in table to section 14 of Act**

	Number of occasions when application not successful
Responsible and effective government	0
Law enforcement and security	4
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	7
Environment, culture, economy and general matters	0
Security provisions	0
Exempt documents under interstate Freedom of Information legislation	1

**Table A12 Timeliness**

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	15
Decided after 35 days (by agreements with applicant)	4
Not decided within time (deemed refusal)	0
<b>Total</b>	<b>19</b>

**Table A13 Number of applications reviewed under Part 5 of the Act (by type of review and outcome)**

	Decision varied	Decision upheld	Total
Internal review	0	0	0
Review by Information Commissioner*	0	0	0
Internal review following recommendation under section 93 of Act	0	0	0
Review by the NSW Civil and Administrative Tribunal	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

\*The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

**Table A14 Applications for review under Part 5 of type Act (by type of application)**

	Number of applications for review
Applications by access applicants	0
Applications by person to whom information the subject of access application relates (see section 54 of the Act)	0

***Public interests disclosures***

There were no public interest disclosures during the reporting year.

***Privacy and personal information***

The Annual Reports (Departments) Regulation 2015 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.

The Office of the Children's Guardian has in place a Privacy Management Plan. In 2015-16 the Office of the Children's Guardian will review its privacy practices and update the Privacy Management Plan to incorporate the expanded functions of the Office of the Children's Guardian.

***Internal reviews***

In May 2013 the Children's Guardian, acting in the position of Commissioner for Children and Young People, reported to the Privacy Commissioner that the former Commissioner for Children and Young People may have breached some of the Information Protection Principles under the *Privacy and Personal Information Protection Act 1998*. This potential breach related to enforcement notices issued under the *Commission for Children and Young People Act 1998*.

An internal review was conducted and it was concluded that that there was a breach of privacy and comprehensive details were provided to the Privacy Commissioner. The final report of the Privacy Commissioner, provided to the Office of the Children's Guardian in September 2015, identified the shortcomings relating to inadequate security measures in place for the Commission database and failure to take reasonable steps to ensure the accuracy of the personal information having regard for the purpose for which it was intended to be used.

The report also noted that, since this investigation, significant legislative and administrative change had occurred to the arrangements for the Working With Children Check including transferring the Working With Children Check functions to the Office of the Children's Guardian and the introduction of a new Working With Children Check system on 15 June 2013. These changes have improved privacy protection and the new online system has improved security of data and reduced the manual handling of information.

The findings of the internal review and the Privacy Commission investigation have informed and strengthened management practices with regards to privacy protection and the new Working With Children Check.

**Appendix F: Risk management and insurance activities*****Internal audit, risk management and insurance***

The Office of the Children's Guardian established an Audit and Risk Committee in 2014. Its focus during its second year of operation has been to consolidate the program of work developed in the previous year, which was designed to ensure that the committee meets all its obligations under its Charter and NSW Treasury policy TPP09-05.

The committee has expressed its satisfaction with the standard of audit and risk-related work undertaken by the Office of the Children's Guardian, including governance frameworks, policies and procedures deigned to enhance the our risk controls.

### ***Committee membership***

The Office of the Children's Guardian Audit and Risk Committee comprises Mr Alex Smith, Independent Chair; Mr John Hunter, Independent Member and Ms Gul Izmir, Independent Member. Meeting dates and attendance for 2014-15 were:

- 25 July 2014 (Alex Smith, John Hunter, Gul Izmir)
- 15 August 2014 (Alex Smith, John Hunter)
- 7 October 2014 (Alex Smith, John Hunter, Gul Izmir)
- 11 February 2015 (Alex Smith, John Hunter, Gul Izmir)
- 13 May 2015 (Alex Smith, John Hunter, Gul Izmir)

### ***Internal audit program***

As part of its internal audit program the Office of the Children's Guardian undertook a comprehensive review of its risk profile, which was facilitated by the internal auditors Deloitte. Subsequently our business risk register was finalised. This provides an overall assessment of our risk environment, including details of any significant emerging risks or legislative changes impacting the Children's Guardian. The information contained in the register has been used to inform the development of the Internal Audit Plan that was endorsed by the Audit and Risk Committee in May 2015.

During 2014-15 the Committee received audit reports and management responses for the following operational audits:

- Working With Children Check Continuous Checking Review
- Information Security Review.

### ***External audit***

The Audit and Risk Committee noted the Office of the Children's Guardian's attestation and the NSW Audit Office's opinion that the 2013-14 financial statements were a true and fair view of our financial position. The committee has worked again with Office of the Children's Guardian and the NSW Audit Office for the planning and review of the 2014-15 financial statements.

### ***Insurance***

The insurance arrangements of the Office of the Children's Guardian are managed as part of the NSW Treasury's Managed Fund portfolio. We have been allocated Allianz for Workers Compensation insurance requirements and Suncorp for business insurance.

#### **Table A15 Insurance policies held in 2014-15**

Type	Coverage
Liability	For professional, product, directors and officers liability
Property	Provides coverage for owned assets including consequential loss
Motor vehicle	Comprehensive
Miscellaneous	Covers risks mainly associated with employee dishonesty and agency specific travel overseas but not for personal effects
Workers compensation	Workplace injury

### ***Credit card certification***

In accordance with Treasurers Direction 205.01 it is certified that credit card use at the Office of the Children's Guardian is in accordance with appropriate government policy, Premier's Memorandum and Treasurer's Direction.

## Internal Audit and Risk Management Attestation for the 2014-2015 Financial Year for the Office of the Children's Guardian

I, Kerry Boland, Children's Guardian am of the opinion that the Office of the Children's Guardian has internal audit and risk management processes in operation that are, in all material respects, compliant with the core requirements set out in Treasury Circular NSW TC 09/08 *Internal Audit and Risk Management Policy*. These processes provide a level of assurance that enables the senior management of the Office of the Children's Guardian to understand, manage and satisfactorily control risk exposures.

I, Kerry Boland am of the opinion that the Audit and Risk Committee for the Office of the Children's Guardian is constituted and operates in accordance with the independence and governance requirements of Treasury Circular NSW TC 09/08. The Chair and Members of the Audit and Risk Committee are:

- Independent Chair, Alex Smith, Start term date: 1 April 2014, finish term date: 31 March 2018.
- Independent Member, John Hunter, Start term date: 1 April 2014, finish term date: 31 March 2017.
- Independent Member, Gul Izmir, Start term date: 1 April 2014, finish term date: 31 March 2016.



**Kerry Boland**  
Children's Guardian

## Appendix G: Payment of accounts

The Office of the Children's Guardian complies with the NSW Treasury Circular 2011-12 Payment of Accounts, which requires all NSW Government agencies to pay small business suppliers within 30 days for goods and services or else pay interest on outstanding amounts.

The purchasing agreement between the Office of the Children's Guardian and ServiceFirst, the corporate and shared service provide, includes an undertaking that all valid tax invoices from a registered small business were to be paid within 30 days of receipt of the invoice. Where invoices were not paid within 30 days the supplier was entitled to interest payments.

**Table A16 Aged analysis at the end of each quarter**

Quarter	Current (within due date)	< 30 days overdue	30 and 60 days overdue	60 and 90 days overdue	>90 days overdue
September	163,177	-	(1909)	-	(7402)
December	146,470	-	(847)	11,176	(13,754)
March	843,630	-	(1173)	(3084)	(8789)
June	(6557)	-	(821)	-	(1725)
<i>Small business suppliers</i>					
September	-	-	-	-	-
December	-	-	-	-	-
March	-	-	-	-	-
June	-	-	-	-	-

**Table A17 Accounts due or paid within each quarter**

Measure	September	December	March	June
<i>All suppliers</i>				
No. of accounts due for payment	450	513	454	493
No. of accounts paid on time	401	445	413	469
Actual percentage of accounts paid on time (based on number of accounts)	89%	87%	91%	95%
Dollar amount of accounts due for payment	5,757,698	5,587,575	3,483,997	4,442,907
Dollar amounts of accounts paid on time	4,505,234	4,906,560	3,033,632	3,846,374
Actual percentage of accounts paid on time (based on \$)	78%	88%	87%	87%
No. of payments for interest on overdue accounts	-	-	-	-
Interest paid on overdue accounts	-	-	-	-
Small business suppliers	-	-	-	-
No. of accounts due for payment	-	-	-	-
No. of accounts paid on time	-	-	-	-
Actual percentage of accounts paid on time	-	-	-	-
Dollar amount of accounts due for payment	-	-	-	-
Dollar amounts of accounts paid on time	-	-	-	-
No. of payments for interest on overdue accounts	-	-	-	-
Interest paid on overdue accounts	-	-	-	-

## Appendix H: Consultants

**Table A18 Consultancies of value equal to or more than \$50,000**

Consultancy category	Title/nature of the consultancy	Cost
<i>Management services</i>		
Ernst and Young	Evaluation of the first two years of operation of the Working With Children Check	\$160,430
KPMG	Review of the regulatory framework for the Department of Family and Community Services' provision of out-of-home-care services Phase 1	\$39,754
<b>TOTAL consultancies with a value equal to or more than \$50,000 is two</b>		<b>\$200,184</b>

**Table A19 Consultancies of value less than \$50,000**

Consultancy Category	Cost
Management Services (4)	\$82,319
Research (1)	\$27,006
<b>TOTAL number of individual consultancies with a value less than \$50,000 is five</b>	<b>\$109,325</b>

## Appendix I: Research and development

There were no completed or continuing research and development activities undertaken by the Office of the Children's Guardian during 2014-15.

## Appendix J: Major works in progress

The Office of the Children's Guardian did not undertake any major works in 2014-15.



## Appendix K: Consumer response

The Office of the Children's Guardian accepts complaints, comments and suggestions about any of our services. We are committed to quality customer services by providing courteous and prompt assistance. The Office's complaint handling process is provided on our website.

During the reporting period the Office received a number of formal complaints about the Working With Children Check. The majority of these complaints related to the time it was taking for individuals to receive an outcome relating to their application for a Working With Children Check. Where an individual has relevant records the Office of the Children's Guardian is required to obtain information from a variety of third parties as well as the individual. The Office of the Children's Guardian is therefore dependent on obtaining this information in a timely manner to allow a risk assessment to be finalised and a decision to be made.

During the reporting period the Office of the Children's Guardian received a formal complaint about the application of the Children's Employment regulation and the manner in which it was dealt with by a two staff members of the Office of the Children's Guardian. This complaint resulted in an internal review and it was found that the allegations against the staff members were not substantiated; however the review confirmed that inconsistent advice had been provided with. As a result of this review the Office of the Children's Guardian:

- re-examined internal processes to ensure that all the necessary details are obtained from employers before child-employment related advice is provided
- ensured that information about exemptions is included in all written communications.

## Appendix L: Digital information security policy attestation

### **Digital Information Security Annual Attestation Statement for the 2014-2015 Financial Year for the Office of the Children's Guardian**

I, Kerryn Boland, am of the opinion that the Office of the Children's Guardian had an Information Security Management System in place during the financial year being reported on consistent with the Core Requirements set out in the *Digital Information Security Policy for the NSW Public Sector*.

I, Kerryn Boland, am of the opinion that the security controls in place to mitigate identified risks to the digital information and digital information systems of the Office of the Children's Guardian are adequate for the foreseeable future.



Kerryn Boland  
Children's Guardian

## Appendix M: Annual report preparation

This annual report was prepared in accordance with Premier's Memorandum 2013-09 Production costs of annual reports. There were no external production costs for copy writing, design or printing. A contractor was engaged for proof reading at the cost of \$1800.



## Appendix N: Compliance with annual reporting requirements

Under the *Annual Reports (Departments) Act 1985*, the *Annual Reports (Departments) Regulation 2015* and various Treasury circulars the Office of the Children's Guardian is required to include certain information in its annual report. The following is a list of information we are required to include in accordance with NSW Treasury's Annual report Compliance Checklist.

**Table A20 Compliance with annual reporting requirements**

Compliance Requirement	Comment/Location
Access	iv
After balance date events	Not applicable
Agreements with the Community Relations Commission	No such agreements
Aims and objectives	11–12
Application for extension of time	Not applicable
Audit opinion	69–70
Audited financial statements distinguished by note	72–93
Availability of this annual report	<a href="http://www.kidsguardian.nsw.gov.au">www.kidsguardian.nsw.gov.au</a>
Charter	11
Consultants	103
Consumer response	104
Contact details and website address	iv
Controlled entities	No controlled entities
Credit card certification	101
Digital Information Security Policy for the NSW Public Sector annual attestation	104
Disability plans	96
Economic or other factors	Not applicable
Equal employment opportunity	96
External costs incurred in the production of this annual report	104
Financial statements	69–93
Funds granted to non-government community organisations	No funds granted
<i>Government Information (Public Access) Act 2009</i>	97–100
Human resources	94–95
Inclusion of unaudited financial statements	No unaudited financial statements
Industrial relations policies	95
Internal audit and risk management policy attestation	102
Land disposal	No land disposal
Legal change	53–57
Letter of submission	Inside front cover
Management and activities	11, 94–97
Management and structure	11
Multicultural policies and services program (formerly EAPS)	97
Payment of accounts	102–103
Performance and number of executive officers	94
Price determinations	Not applicable
Privacy and personal information	100
Promotion – overseas visits	95
Public interests disclosures	100
Requirements arising from employment arrangements	No personnel services to another agency

Research and development	103
Risk management and insurance activities	100–101
Summary review of operations	14
Work health and safety	95
Workforce diversity	96
Workforce profile	96