

REPORT ON PROCEEDINGS BEFORE

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

**2018 REVIEW OF THE ANNUAL REPORT OF THE ADVOCATE FOR
CHILDREN AND YOUNG PEOPLE AND FUNCTIONS OF THE
CHILDRENS GUARDIAN**

At Jubilee Room, Parliament House, Sydney on Monday, 30 April 2018

The Committee met at 2:00 pm

PRESENT

Ms Melanie Gibbons (Chair)

The Hon. Greg Donnelly

The Hon. Wes Fang

Ms Jodie Harrison

Mr Michael Johnsen

Mr Damien Tudehope

The CHAIR: I declare open the hearing of the Committee on Children and Young People on the 2018 annual review of the Advocate for Children and Young People. As part of its role, the Committee regularly oversees the exercise of the functions of the Advocate for Children and Young People and the functions of the Children's Guardian under the Child Protection (Working with Children) Act 2012. I thank the Advocate for Children and Young People and the Children's Guardian who today will give evidence before the Committee about their work.

JANET KATHRYN SCHORER, Children's Guardian, Office of the Children's Guardian, sworn and examined

LOUISE BERNADETTE COE, Director, Working With Children Check, Office of the Children's Guardian, sworn and examined

SHARMINIE NILES, Director, Legal Services, Office of the Children's Guardian, sworn and examined

The CHAIR: I welcome the Children's Guardian and representatives from her office. Thank you for appearing before the Committee on Children and Young People today to give evidence. Will you please confirm that you have been issued with the Committee's terms of reference and information about the standing orders that relate to the examination of witnesses?

Ms SCHORER: I can confirm that we have received that, thank you.

The CHAIR: Would you like to make a brief opening statement before we begin with questions?

Ms SCHORER: Thank you. I start by acknowledging that we meet on the traditional land of the Gadigal people of the Eora nation and I pay my respect to them as the traditional custodians of this land and also pay my respect to their elders past, present and future, acknowledging the future leadership of our Indigenous community. Thank you for the opportunity to speak to you today and to be with you. I have been the New South Wales Children's Guardian for just under a year. Firstly, in speaking to you today I would like to acknowledge the commitment and dedication of my staff not only in preparing me to be here with you today but in the focus they bring each and every day to creating safe places for the 1.6 million children in our State. It is due to their work that the Office of the Children's Guardian is held in such high regard by all organisations that I have met so far since I have taken on the role.

We have about 27,000 organisations registered with us; that includes government, commercial providers and volunteer organisations, and it is that reputation that makes it possible for us to train and monitor organisations and encourage them to be child safe. There are three main things that we do in creating safe places for children: we check the people working with children under the Working With Children Check and our Carers Register; we work with organisations to develop their child safe culture; and we provide them with tools to understand how to appreciate children's perspectives. I just want to reflect on a couple of milestones for us in the past year.

We have just completed a comprehensive statutory review of the Working with Children Act, which has led to a number of improvements to the scheme. Some of these changes have been to fine-tune our legislation, others are more substantive and will promote better compliance or allow us to provide a more nuanced approach when we are representing in response to result in fairer outcomes. When the bill was being debated, the honourable members of Parliament noted the robust consultation process, and I can continue to confirm their engagement with us in making the Working With Children Check effective in protecting children. We have also reached an important milestone with the Working With Children Check; it has been in operation now for five years. Those initial checks start to expire and applications for renewal come in. So from this point in time we go into two streams of works: we have people renewing and new applications. So that is a different process for us.

We have also had the royal commission release its report and, as you know, the Working With Children Check is a big part of what the royal commission recommended. It is well known that many offences are opportunistic and occur because the environment allows that; so we see a role for us into the future in encouraging preventative culture. We will continue to invest in our training program and the resources available to organisations to support them. We will continue to have a preventative approach and to encourage organisations to assess risk in terms of what it means to keep children safe.

We have also developed a range of protective behaviours resources that enable organisations, particularly those that work with young children, to help them understand the types of feelings and the types of adults that they can trust. It provides early educators with tools to enable kids to feel a sense of when they are not safe and to identify adults who they can talk to when they need to deal with that. We are in the process of rolling that out with some national organisations at the moment, and we take that as a real compliment to the quality of the work that we have been able to do. We are also in discussions with the Commonwealth and with other jurisdictions about how we can broaden the scope of the Working With Children Check to honour the royal commission's recommendations in making that a national scheme.

Where is our focus in the coming months and years? For me, starting in this role, I still feel like we are at the very beginning of our work towards the best child safe culture for the children in New South Wales. That is not to say there are not many great organisations doing wonderful work in keeping our children safe, but we

have still got a long way to go. Our expectation in the years ahead is that we would embed child safety reforms much like we have other reforms like work health and safety and wearing seatbelts. That is the hard work of setting different expectations early and creating a different mindset about what our obligations are and where our accountability is that aligns with the tolerance the community has for how our children are kept safe. But we know that that takes investment, it takes times and effort and it takes a vision to bear fruit in seeing that—and that is my vision.

I support the royal commission's intent to have common standards for child safe organisations. The work we have already done in New South Wales in establishing child safe principles aligns with that intent. But anything we would do that we would seek to implement from here would continue to have a strong focus on culture change and partnership with sectors that leads to prevention and better reporting and risk management. In New South Wales we are also building on our carers' register. The royal commission recommended that all States and Territories establish a carers' register. We already have one of these and we will be expanding that to provide a secure environment for holding information about reportable matters not only for agencies which provide out-of-home care but also for those agencies providing residential care.

Our ultimate aim is to create a safe environment for all children in New South Wales, with a focus on the most vulnerable. To this end I have committed to working towards finding a new approach for working with Aboriginal communities to develop a better way to support them to create safer places for their children. Whilst we do not at this point collect data about people's cultural background through the working with children check, we are conscious that we need to develop an end-to-end experience that is much better for Aboriginal people through the working with children check. We recognise that there are structural and historic reasons that have led to Aboriginal people being overrepresented in our criminal justice system, and that means there are a higher proportion of Aboriginal applicants within the scope of the working with children check.

We are really seeking the balance between making sure our check remains robust while acknowledging the impact that these complex factors have on the outcomes of and experience for Aboriginal applicants. This is a complex and sensitive area, where we are considering a number of approaches to better achieve this balance. Overall, though, I acknowledge the leadership communities have to determine what works best for them, and the hope and aspiration they have for their children and their safety. In closing, the Office of the Children's Guardian is doing some really important work to create safe places for children in New South Wales. We look at today's issues and influence within systems and organisations, but with an eye to the future and how we want to create an opportunity for children to thrive. Thank you for your time. I look forward to your questions.

The CHAIR: You mentioned that the working with children check is now in its fifth year and, I guess, final phase. It is phenomenal to think that we have been looking at it for that long as well. I had not realised that five years had passed. Can you evaluate the effectiveness of the new system? Are you doing the next round of assessments any differently? Some people have had one working with children check and are now on their second one. Do you judge those differently, or do you start again with their assessment? Have you rejected any second round people?

Ms SCHORER: I might ask Ms Coe to speak to some of that detail.

Ms COE: The second part of your question was about whether we had rejected any applications. No. The start date is 13 June. People can apply three months out, so we have had that application process. We have not had anyone come through as yet who was previously refused a clearance. In regard to whether we look at it any differently, yes, we have had systems upgrades. If someone came through the first time and they had, say, an extensive criminal history, we have marked that up, reviewed it and made a decision. That is going to be identifiable the second time around. In the system it is colour coded. We have the continuous check event system, which means that when there were new charges over the past five years we are already aware of them. So we would have dealt with them. It would now be more a matter of people who were previously refused. It is five years hence and we would look at those on a case-by-case basis, taking into account the passage of time. So we will review slightly differently but the process itself is the same.

The CHAIR: How effective is the new system? Is it working out the way you had hoped it would work out? Is it doing what it should be doing?

Ms COE: We would like to think it is. Part of the review was to look at whether we should do things differently, so there has been an evaluation by the stat review. We have, I think, more than 1.6 million people in the system, so there has been a huge uptake. I think we have processed internally around 200,000 applications. So we would like to think we have made a difference and stopped people from future harming children.

The CHAIR: Is there an email alert or something when people need to be renewed?

Ms COE: Yes.

Ms SCHORER: Yes. They receive an email from us three months before they are due to renew, but their renewal date stays the same as their original check. They do not lose three months, but we are encouraging people to renew earlier.

The CHAIR: So there is no gap.

Ms SCHORER: Yes.

Mr MICHAEL JOHNSEN: There have been 90 investigations of alleged non-compliance of the working with children check or misconduct towards children. What was the outcome of those investigations?

Ms COE: The 90 investigations, I think, were referrals to the working with children check system. They were all reviewed but they were not all investigated. When we find a breach we refer it to the NSW Police Force. I think in the last year, two matters were referred to the police. One person received a warning and the other one was statute barred. The other matters have been resolved. Either the non-compliance issue was resolved or it was not the situation that was reported to us. But we have looked at all those matters. As I said, at the serious end there were only two matters.

Mr MICHAEL JOHNSEN: Is that more of an administrative thing then for the 88?

Ms COE: Yes. Somebody might refer a matter to us and say, "This person doesn't appear to have a working with children check." We might look and see that they do have a working with children check. There might be an issue around verifying. We remind people of their obligations to verify. So we resolve matters as they come up, but they are not necessarily at the serious end.

The Hon. WES FANG: How many prosecutions were undertaken in the 2016-17 reporting year in relation to the working with children check, and what were the outcomes?

Ms SCHORER: I might ask Ms Niles to speak to that.

Ms NILES: When you say prosecutions, do you mean prosecutions in relation to the two that we talked about? We have only ever had two prosecutions.

The Hon. WES FANG: In the reporting year 2016-17, if there were two prosecutions how were they processed and what were the outcomes? Were there others outside of the 90?

Ms NILES: No, there were just two prosecutions. That was for non-compliance. Apart from that, there was just the ordinary working with children check process where we risk assess. People might appeal and go to the NSW Civil and Administrative Tribunal [NCAT]. It is a completely different process then.

The Hon. WES FANG: Okay. Have you noticed any compliance trends in the working with children check?

Ms SCHORER: Some of the trends that we have noticed recently—Ms Coe might pick up a few of these as well—have been around organisations where there is a large volunteer base. We appreciate that there is often a volunteer who is supporting another group of volunteers. In the main, our compliance effort there goes to explaining the process, helping them to understand their obligations and then maybe us speaking to a parent sporting body, for example, about ways that they support local groups. I have to say that in sport in particular our Office of Sport in New South Wales does a fantastic job at local level member support, which is important. That is where some of the trends sit. We do a fair bit of work in trying to gather intelligence. As you would imagine, parents find a lot of information about organisations in the community on social media. For us to be able to track an organisation back from what they say on social media is their business model takes some effort, but that is the job of our compliance teams. Those are a couple of the trends that we see around how organisations come into contact with us, and how we try to find them for compliance activity. Ms Coe, is there anything else you wanted to add?

Ms COE: No, just a bit on the volunteers. The problem with the volunteer sector is the verification rate. In the system, if you are the employee you are meant to go onto our portal and verify online so that if something happens to that person's clearance we can contact the employers directly and let them know the outcome. In regard to trends, in the volunteer sector we have 56 per cent of employer verification compared to 82 per cent of paid employers. So a lot of checks are being done, but the organisation or the employer in the volunteer sector is not really following through with that necessary step and verifying online, which is critical.

Ms NILES: I might just add to that, that just recently we have introduced statutory amendments so that non-verification is now an offence and a penalty has been attached to it, so it has been a progressive thing. We required them to verify in the first instance and now we have added a penalty to that.

Ms JODIE HARRISON: I have a follow-up question relating to reapplying for a Working With Children Check. If someone applied three years ago and their application was declined, can they reapply now or do they have to wait for five years?

Ms COE: If you are refused a clearance, you cannot reapply for five years. The bar is effective five years from the date of refusal. We have a section in the Act which allows if there is a significant change in circumstances that they can apply to us and ask us to reconsider their application, but a bar is effective for five years.

Ms JODIE HARRISON: I have a question about some correspondence that the Committee received. There is no detail in the correspondence, but I want to go through some of what has been written to the Committee relating to the discussion paper. I am seeking your feedback on what this person is saying. This person stated, "From a practical view, section 38 regrettably restricts the Children's Guardian to responding in a bygone motherhood voice with no points of action and no expedient effect on non-government and private organisations that refuse to implement minimum ChildSafe standards and practices." Then the person goes on to say that they wrote to the Office of the Children's Guardian about "serious allegations of unsafe practices in an organisation offering services to children and young people. I am shocked that the Guardian and directorate are impotent to take any action whatsoever under section 38." This has been written to the Committee. I seek a response from the Children's Guardian on the issues raised, given the fact that there is no detail in the correspondence as to the organisation.

Ms SCHORER: Can I clarify the two questions as I heard them? There is a comment that our statutory review changes to section 38 hold the position of the Children's Guardian in a position that is of a bygone view of what children should be? Have I got that right?

Ms JODIE HARRISON: The person is indicating that the Children's Guardian does not have any ability to act. They are basically intimating that the Children's Guardian has no authority when there is an organisation that is—

Ms SCHORER: Not of a suitable standard?

Ms JODIE HARRISON: Absolutely, yes.

Ms SCHORER: I will pick up the response to that issue in two parts. As it relates to section 38—which is about my broad public awareness education functions—I do not have broad powers and where I exercise those functions currently is the work we do in ChildSafe. That is about education and training on a voluntary, invited in capacity with organisations to say there are ways that you can be more child safe. But it is correct that I have no mandate to do that; there is no regulatory framework. Organisations are not required to do anything with me around ChildSafe apart from what they do with the Working With Children Check. That is, in part, true. As it relates to the safety or otherwise of an organisation, if it relates to an organisation where I have oversight in the out-of-home care sector, it is absolutely the case that we have the authority to deal with that.

We might not speak about it in public in a way that members of the public might be entirely comfortable with, but we do that for the safety and wellbeing of children and carers and the stability of the out-of-home care sector. If people have a concern about the culture and safety of an organisation where our only relationship with them is through the Working With Children Check, we also have a means to receive information directly to say we do not think there is something not right here, and whilst we may only be able to exercise our authority as it extends to the Working With Children Check, there is an Ombudsman and we can refer to Police. If we had concerns that set out our authority where we thought there was a genuine issue, we actively take action to seek other authorities to intervene.

Ms JODIE HARRISON: Thank you.

The CHAIR: You have mentioned ChildSafe. Can you describe any other public awareness or advice programs or any initiatives you have planned for the reporting year ahead?

Ms SCHORER: Our main focus this year and what will be the year ahead has been firstly our program for children with disability that we launched at the end of last year and that is a program that provides really fantastic resources for people who work with children with disability to understand the different types of environment that needs to be thought about for children to be safe. It goes into ideas of a restrictive practice, how children with disability might communicate differently, and so on.

In the context of the National Disability Insurance Scheme [NDIS], we have also made and redeveloped many of those resources to enable parents to make choices about people and the organisations where they have their children and what they are purchasing on behalf of their children. We have had good feedback on those resources and we want to continue along that vein for our broader ChildSafe work. When

parents are choosing a tutor, a coach, a sporting club, whatever it might be, they are better informed to think about the kind of environment, to ask the right sorts of questions about an organisation. Our view is that while we can do all we can as a government entity, parents need to be informed as much as anyone about how to make choices on behalf of their children.

We also announced last year that we want to do more specific work with sectors to think about how we can go with the momentum that some have around the royal commission and wanting to make a lot of culture changes—so work more closely and in-depth to design and work with different sectors about ChildSafe. We know that child-related employment is a big and varied sector from our big government providers to the smaller sporting clubs, so we want to be able to have a more nuanced approach to working with them. That is our intention this year. We have also had big uptake on our e-learning, so we will be doing much more to make ChildSafe products available for free and as accessible as possible for many more people.

The CHAIR: Could you elaborate what is meant by ChildSafe principles?

Ms SCHORER: I will start and Ms Coe might jump in. In New South Wales, a number of years ago we did some work with the sector to establish four ChildSafe principles. They speak from the perspective of a child to help organisations understand in simple terms what they should be doing to understand the rights of a child to understand how to organise their recruitment, the messaging about their organisation, and to enable them to have governance and mismanagement in place. We have four principles that we educate organisations on. They are intended to be guiding and to point the direction as to how they might take on board the sort of culture changes that we want to see to enable them to be child safe.

The Hon. WES FANG: What effect will the implementation of recommendations of the statutory review and the last phase of the Working With Children Check have on your workload?

Ms NILES: Most of the recommendations that have been made from the statutory review that have been implemented by legislative amendment are clarifying amendments or bringing in enforcement provisions. Essentially, in regard to workload, it would just mean that we have additional powers to ensure that people comply. Apart from that there are a number of definitional changes and other things that do not really impact on the workload itself. The only thing that would perhaps impact on the workload would be the enforcement provisions, where we would be imposing penalty notices. But again it is just giving ourselves the power to be able to do something that we could not do before.

The Hon. WES FANG: Will it have a minimal effect on the current workload?

Ms NILES: I would say so.

Ms JODIE HARRISON: In 2016-17 there were 121 applications to the NCAT relating to working with children checks, which I assume were declined. What were the overall outcomes of those applications and are any changes being implemented as a result?

Ms NILES: In 2016 we implemented the reasonable person test, which made it more like looking at whether how a decision that has been made would impact on the person on the street—the reasonable parent. That is being used by both the Office of the Children's Guardian and the NCAT. I would say that it has caused us to look more carefully at the sorts of decisions that are being made, particularly for the NCAT. Those recommendations were made after the NCAT made certain decisions to turn over decisions that the Children's Guardian made. I think that in effect it means that the NCAT is looking more carefully at the decisions that we make. I would say that as a result there is more consistency between the decisions that we make and that the NCAT makes.

Ms JODIE HARRISON: Of the 121 applications, how many were upheld by the NCAT?

Ms NILES: I would not be able to tell you off the top of my head but I am happy to take the question on notice.

The CHAIR: Can I bring us back to the principles that we were talking about a moment ago? How do you measure the compliance of organisations to those principles? Can you measure what other organisations do and whether they meet those principles?

Ms SCHORER: At this point in time we do not have a scheme that allows us to do that. This is purely a capacity-building undertaking. We do ask for feedback and because we have an ongoing relationship with organisations through our working with children check compliance, when we see non-compliance we ask organisations to participate in our ChildSafe training. We can see some impact through that, but at this stage it is absolutely a capacity-building undertaking so we do not have that data flow quite yet. There is no obligation on organisations to participate in that.

The CHAIR: Should there be?

Ms SCHORER: Quite possibly, yes. Certainly from a compliance perspective it would assist to have that data measure. But at this point in time it is a voluntary program.

The CHAIR: Thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to any further questions?

Ms SCHORER: Absolutely.

The CHAIR: Thank you so much for your time today.

(The witnesses withdrew)

ANDREW JOHNSON, Advocate for Children and Young People, affirmed and examined

DECLAN DRAKE, former Chair, Youth Advisory Council, affirmed and examined

The CHAIR: Thank you for appearing before the Committee on Children and Young People to provide evidence. Please confirm that you have received the Committee's terms of reference and the information about the standing orders relating to the examination of witnesses.

Mr DRAKE: Yes.

Mr JOHNSON: Yes.

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

Mr JOHNSON: I acknowledge that we meet on the lands of the traditional owners, the Gadigal people of the Eora nation, and pay my respects to elders past and present, and given who we are and the role of this Committee, those of the future. I also acknowledge Declan Drake, who was the chair of the New South Wales Youth Advisory Council during this reporting period. I thank the members of the joint parliamentary committee for taking the time to talk with us today and for meeting with us over the past 12 months. I also take this opportunity to thank the many individuals and organisations that have assisted us in ensuring that the children and young people of New South Wales have a voice in their community.

This year we have consulted with more than 2,000 young people through our officers and 3,000 young people through polling around the State on topics including their general attitudes, homelessness, violence, inclusion, and what is good participation. Further, I acknowledge the efforts of non-government civil society and government agencies that have helped us to reach these children and young people and who have been so enthusiastic about ensuring the progress of critical issues such as the prevention of violence against children.

I also thank the staff of the Office of the Advocate for Children and Young People for their continued commitment to providing support and advice on a wide range of issues that impact on the lives of children and young people, the many organisations that support and work with us and, finally and most importantly, the children and young people themselves who have willingly engaged with us throughout the year so that we can come to you and to many other agencies and departments around the State with clear recommendations based on their lived reality and experience.

Video presentation shown.

The CHAIR: That was a perfect opening statement. Do you want to add or elaborate on anything else?

Mr JOHNSON: No.

The CHAIR: During the first year of the strategic plan, have you identified any trends or changes in services that affect children and young people?

Mr JOHNSON: What we saw in the beginning of this reporting period was the launch of the actual plan. A large part of that was ensuring there was sensitisation across the State across different departments. We went on a concerted effort, along with the DPC regions. Each of the regions has a regional leadership executive group and so we went to each region to hear from a regional perspective about what issues were facing them and facing children and young people. One of the key elements for the strategic plan was to have a joint language when we talk about children and young people. It was very important to take that out to the regions and governments—a very big organ—to ensure that people on the ground knew about the plan and where it could be useful. We spent a lot of time in this reporting year doing that.

We also progressed some of the initiatives that were tasked to us during that reporting period which included Our Local, so the name got changed because of legal reasons. It was My Local and then after talking to children and young people and they said, "Well why not just call it 'Our Local'?" So we did. During that period there was a lot of research and development. The next reporting period, we can say as at today it is currently being built, and that is with input from thousands of children, as well as a committee made up of many different departments.

The Hon. WES FANG: Will you provide details on how you engaged with children and young people in regional and remote areas during the reporting period?

Mr JOHNSON: When we do the research in the office or when we are out talking to children and young people we try to look at the general demographics of the State as it applies to zero to 24. Around 40 per cent of children and young people live in regional New South Wales. All the team know that if we are doing a consultation and 40 per cent are not from regional New South Wales then we go again. To give an example, during this period we spoke to a lot of young people experiencing homelessness as part of the plan in the previous period. Then we realised that we needed to go out and talk to more young people on the ground. So that meant that we went to many different parts of the State in regional New South Wales.

In the Far North we went to Gosford. As part of the regional consultations we also went out to all the different regions which I am happy to list. When we engage with children at the regional level we work through the schools. We call up the schools in the areas and say what our methodology is. When we went to Coffs Harbour, for example, which we did during this period on two separate occasions, we contacted the local primary school, the secondary school and other schools. We ring up local youth groups, including the PCYC, and then we go from about 9 o'clock in the morning until 5 o'clock at night and make sure that we are seeing as many children during that process as possible.

The Hon. WES FANG: Did that extend to all corners of the State?

Mr JOHNSON: All corners as were physically possible. I think when we trialled this when we first started the office it was clear to us it was important to do face-to-face consultations. One of the other facts was when we were out talking to children and young people—whether that be in western New South Wales or regional New South Wales—it was important for them that the office was present. I am probably present for 99 per cent of all consultations. I would not have thought this going in, but it became important for young people that I was there listening as a person with a mandate.

When we did the work on bullying during this reporting period we went out and spoke to children in Sydney and regional New South Wales. I think in the bullying consultations one of the regional areas was Dubbo. We do face-to-face consultations and you get kind of a visceral detail of information that you do not get doing a survey. Then we back that up. These were the trials we had in our first six months to a year and often people did not believe us. So then we do a blind poll which reconfirms the face-to-face consultations. So there was lots more detail on the consultations we had on bullying. For example, I said to young people in Sydney or in regional New South Wales, "I get to talk to adults all the time. What do you want me to tell them?" They said, "I want you to tell them that it is constant and cyclical, and that it moves from the playground to the classroom, from the classroom to the shopping centre and from the shopping centre to the footie club."

It is those kinds of things that you can play out face-to-face but you do not get that detail in a survey or a poll. During the plan we have the process of "Are people going to believe what children are saying?" So we did the poll and then we realised it was actually a very good methodology to do face-to-face first and then do the poll to ensure that we had not, for whatever reason—it is a bad word—infected the results. Thus far, it is pretty rare that you will get a circumstance where the poll will be different from the amount of detail in a face-to-face consultation.

The CHAIR: What size were the towns and centres you visited? Were they small regions?

Mr JOHNSON: There are a couple of ways we do that. We had some very big events during this year. The Speak for Yourself event was when young people came together from all over the State—40 per cent from regional New South Wales. We fly them in or make sure that they are able to attend the event. It is often the case we can get young people from not just regional but remote areas. Obviously that takes time with our perfectly small team, and a lot of effort. There are some skill sets in ensuring that child protection concerns are gold standard. As we should be the exemplar for the rest of government, it does take time and effort.

Also during the period we did a citizens' jury which fed straight into policymakers. We had the Premier's implementation unit, we had senior representatives from health, and we trialled a new way to get regional voices in. We held four citizens' juries in Sydney, just down the road at the barracks, and then we beamed in young people from regional New South Wales. They all heard the same information and all voted at the same time. We learnt a lot. There were significant difficulties on the day that never happened during testing. We are trialling different ways to bring in the voices. But we also think that it is incredibly important for young people to see us present on the ground. Our first principle is we go where children and young people are. For example, with the violence consultations we went out to schools in Cowra which is not terribly remote but it is not Dubbo or Wollongong.

The Hon. WES FANG: For clarification, earlier when you were referring to the far north you said Gosford. Did you mean Grafton?

Mr JOHNSON: I actually meant Coffs Harbour, so I apologise.

The CHAIR: We thought Gosford was not far north.

Mr MICHAEL JOHNSEN: You said that you contact schools. I am aware that certain good programs for children are met with resistance by individual schools, for whatever reason. What is the attitude of schools that you contact? Are they accommodating and welcoming? Has any school resisted your approach?

Mr JOHNSON: I do not think there is any form of resistance. I think when we first started, when we were much smaller—there were only a couple of us—it was about building relationships with schools, it was about building relationships with NGOs and other organisations. I think over the last three years a lot of organisations know who we are now, which makes it easier. I think one of things why we would say it is so incredibly important to get the views of children and young people is that when organisations see that we use the information that we are getting from them in real policy change and real policy-making—for example, in homelessness—those services open their doors to us.

I make the point that post royal commission one of the things that we could overlook is that New South Wales has got a lot of the system right. We were just hearing from the guardian. We are able to do what we do because we are not a regulator. Organisations or schools know that we take the information back to policymakers; they can see it in the plan with children and young people shaping the directions, they can see we work with education giving them the voices of children on their bullying strategy. So I would say that children and young people are open whether their organisations or schools are not, but it is mostly developing the relationships about getting on the phone, about them understanding how we do our practice.

For example, when we were doing the consultations on violence, some of which were in this reporting year, we do not do it without the school agreeing to having a support worker before, during and after the process; so the way that one does work actually engenders greater support. Whether that is public schools, independent schools or Catholic schools, we do not find a resistance. I think the more that schools and youth groups and organisations working with children can see the real effect of their children engaging, the more likely that is going to be.

For example, one of the instances that is starting to work is that when we asked every region around "Would you like to be a trial of Our Local?" which is the digital platform to give information to children and young people, every single region said yes—that they wanted to be. So to answer a couple of questions at once: part of the plan was about changing culture, about understanding that it was easy to listen to children, that children and young people gave real practical advice. Having seen many other jurisdictions, while we have got a long way to go I think we are further ahead than most, and it is about the relationship between the schools or the organisations to seeing the effect of why would they allow strangers, to all intents and purposes, to come into the school and take up 40 minutes of valuable time.

Most organisations, most schools, are seeing that there is a tangible benefit to giving feedback to change policy, but I also think while participation is key to the child safe standards that you were talking about before and key to the royal commission's recommendation to increase safety, there is also the unintended consequence of building better citizens, about young people understanding that they can have a voice, that they can be heard and where that goes. It often seems like a very soft thing to do to engage with children, but I think they give very clear, practical advice to make programs more effective and more efficient. The notion that schools and organisations working with children understand is that you contribute to their confidence and to their ability to be valuable members of the community in which they live.

The Hon. GREG DONNELLY: Would you be able to provide an update on the project dealing with children with disability? How that is progressing? I understand there is a project underway involving you, the Department of Family and Community Services [FACS], the NDIS and some other stakeholders.

Mr JOHNSON: There are a couple of elements to that. One was that we trialled different ways to consult with children with disability. That was a very good example of where we work with schools in many of the different sectors. For example, we did a consultation with young people on the spectrum and thought about the best ways to provide the feedback. We always say the same. Our approach does not change very much, regardless of the circumstances. To further that, while it did not get completed in the reporting period, we are looking at establishing a committee of children and young people with disability solely. We have the Youth Advisory Committee, which is well represented in every year.

With young people with disability we thought it was very important to create an advisory committee, which we can do under the Act, which would just be young people with lived experience or young people living with disability being able to talk about issues, to provide feedback to our office and in that way provide feedback to many other areas. We held meetings, obviously, often with the Department of Family and Community Services, but we reached out to the NDIA—I was around at the beginning of that so I always call it

NDIS—and nicely they came to us, knowing the work that we were doing here in New South Wales, and asked us about how they can better include children and young people in their Federal processes. Part of the plan was to work with FACS and the NDIA about maybe having a better indicator. So that work is in train.

The Hon. GREG DONNELLY: On the issue of drugs and drug addiction in young people, just to segue to something different, I am on another inquiry at the moment in the Legislative Council, and the Hon. Wes Fang is also on the committee, and we are looking at the issue of drug rehabilitation in regional and rural New South Wales. Recently we had some hearings down in Nowra and Batemans Bay. Part of the evidence touched on the issue of young people involved in drug taking and drug addiction. I found there was some very confronting evidence about young people involved in dealing with methamphetamines in schools. One example was cited of an eight-year-old involved in the dealing of methamphetamines. The issue of drugs and drug addiction casts a pall over the whole of society, but certainly with children and young people there is obviously an interface. In the consultation that is done with the children and young people around the State in the way that you do in the various forums, how often does this come up and how is it raised? What sorts of concerns, comments or matters are discussed by the children and young people when asked to reflect on what they have experienced with respect to drugs and drug addiction?

Mr JOHNSON: That comes up a lot and in many different ways. Firstly, when we ask children and young people what is working well and what is not working well, often drugs and alcohol comes up as an issue that is not working well.

The Hon. GREG DONNELLY: I should have added alcohol in as well because the issue of alcohol and drug addiction are being dealt with concurrently.

Mr JOHNSON: It is a major concern for children and young people. In our regional consultations obviously the issue of methamphetamines comes up much more commonly than it does in our consultations in Sydney. I think that is because communities are closer and probably more aware about what is going on that surrounds them. In terms of pointing to where there needs to be improvement, one is, particularly in regional New South Wales but I think the same can be said here in Sydney, that we need more services to be available for young people to detox. There has been some recent investment in this area from the Government and we think that has been great. Young people are telling us that sometimes they may be able to get in a rehabilitation program, but to get into the rehabilitation program you will have had to have gone through a detox. Some places in regional New South Wales are unable to take children and young people. So there is a gap there. I think people are alive to it; I think there has been further investment in the area. A lot of children and young people will say to us that the services relating to drugs and alcohol are not necessarily youth-friendly, which gets to two points.

The Hon. GREG DONNELLY: They are more adult-centric, are they?

Mr JOHNSON: I can tell you what they are saying, and that is their truth. I would say part of that would be getting information to them about what exists already. Part of that would be having the Our Local website where people could see. I think there may be a perception that we need to get better at communicating that services are friendly to young people, and to that end, as part of the plan, we are training up young people to be children and young people's inspectors. So young people go into a service and are able to see whether a young person would be comfortable there or not. In terms of young people in terribly difficult circumstances who talk about their history of addiction, it will be about having the supports available to them. One of the many things they say is, "We need more activities on the ground for us to be involved in." When they are asked, "What do you think can make a real difference?" they say they want to be more aware of the services that are available, and having services that are more children-friendly and youth-friendly.

The other thing is to assist them to not become drug addicted or to take drugs. They talk about the availability of activities outside of school so that they can be occupied and not fall into the drug culture. Once again, that is very practical. That is one of the other areas that Our Local looks to—in a small way, but a concrete way—for young people to see the services that are available. But, more often, if someone is living in difficult circumstances and wants to get occupied they can type in their local suburb or town and see what is available for them to do. It is certainly an issue that comes up a lot. The recommendations are multifaceted, but we certainly keep an eye on it.

The Hon. GREG DONNELLY: Is it more or less ditto for alcohol? Does it come up in conversation about drinking and alcohol consumption?

Mr JOHNSON: What is often interesting—it is advantageous that I am there, and that is why I would say to the next advocate to ensure they are present for the consultations—is that, although it would not come across as you write it up, a lot of young people wanted to make it clear that we said "drugs and alcohol". I think

some young people think there is too much attention on drugs and not enough on alcohol. So they will go out of their way to say, "We need to be talking about alcohol as well as drugs," because there will be some young people who will be seeing misuse and abuse of alcohol but not necessarily drugs. That is not to say that both are not happening. It has been interesting across the board that wherever young people raised the matter—we do not speak to anyone about anything if they are under the age of 25; we listen to them—they stressed the notion that we focus on both.

Ms JODIE HARRISON: I suppose my question overlaps a little bit with Mr Johnsen's question in relation to schools, although not quite so pointedly. Are there any particular regions or populations that you find are difficult to engage?

Mr JOHNSON: The short answer is no. I think there is a notion that there are children who are hard to reach. I think that stopped, over many decades, people going out and talking to young people in difficult circumstances. We would say that children who are "hard to reach" are the easiest to reach. If we wanted to talk to children in difficult circumstances we went out to the regions and spoke to children in specialist homelessness services [SHS]—services for homeless young people. If we want to hear about system failure, we sit down and listen to young people in detention.

In terms of the notion of "hard to reach", that is why we get on trains, planes and automobiles out to regional New South Wales. As you know, I come from international development, so for me it is not particularly onerous getting out to regional New South Wales. It is a one hour flight to most places. I think there is a kind of cultural barrier when people say that young people are hard to reach. I think that the cultural barrier is that maybe they are scared to talk to young people or that they are not going to get something worthwhile so they say that they are hard to reach. We would say that, if you think about it, children and young people are easier to reach because they are in organised groups—whether that is in a youth group or a school.

Obviously there are some children who slip through the cracks. They may have disengaged with school but are not yet in Juvenile Justice. So if they are not connecting with a service then we can say we are probably not listening to as many of those children, but because the legislation clearly sets out that we have to focus on disadvantaged young people, we go to where those young people are—whether that is in residential care, Juvenile Justice, with services or in homelessness. We find that, in doing all of those, we are able to pick up a lot of very good information about how the system is working and where the system is not working for young people.

Ms JODIE HARRISON: Are there different regions or populations that have different hot topics, or are they all pretty much the same?

Mr JOHNSON: Is the question about the differences between regions?

Ms JODIE HARRISON: Yes.

Mr JOHNSON: Obviously, when you are in Broken Hill the issues are very different, because you are looking at a population group that looks equally as much to Adelaide as it does to Sydney, given its difference. Obviously water came up in the consultations in Broken Hill in a way that it did not come up in other consultations. While I am constantly having to advocate that children are as diverse and as different as any other population group, we find that in regional New South Wales there are no major differences between the regions. You will find that, particularly for young people in the outer metropolitan areas of Sydney and regional New South Wales, you often hear the same thing. So transport is a major issue for young people, and for young people in regional New South Wales that can play out differently region by region. In Kempsey and Port Macquarie—did I get those right?—

Mr MICHAEL JOHNSEN: I don't know; did you?

Mr JOHNSON: I think so. When we did the consultations in those areas with homeless young people there was a specific instance of transport being an issue—but that was because if you wanted to do further education and training the transport costs were extreme to get from one centre to the other. So transport comes up everywhere, but the visceral detail—the actual hack, as they would say—is different region by region. While the key themes do not change, there are some differences between coastal communities and non-coastal communities about what is available for children and young people to do. Given that there may not be a beach, there may be some more call on activities. In fact, the further you get away from the coast, the greater the increase in the amount of requests for pools to be open all year around and to be accessible all year round. The major issues of equity in education, mental health, drugs and alcohol, having a voice and violence are the key issues that continually come up wherever we listen to children across the State.

The CHAIR: I will interrupt for a moment—because I may need to disappear—to ask Mr Drake some questions. One of the things mentioned in that video was that young people want to feel heard by government and by adults. What came up? What did you notice, in your year, that we should be hearing?

Mr DRAKE: Some of what I touch on might be outside the reporting period—

The CHAIR: That is okay.

Mr DRAKE: —just as the council is slightly outside that. From the council's perspective, the council is very diverse. We often hear across a range of issues. One issue is that everyone wants to feel included. Inclusion was a big aspect of what we did. We really represented that through Ideation, which was an event during Youth Week last year, where 150 children and young people came to Sydney to plan their own campaign. Their campaign was about diversity. Across the board that was a great event for children being heard and children and young people directing their own campaign. We heard that diversity was not just about culture, disability or geographical location; it was across the board. That was one issue. Violence came through quite heavily as well. So the council's involvement through the End Violence Against Children Now and Forever campaign and its launch was definitely a big event for us. People from rural New South Wales—from Cowra, if I am correct—came to Sydney, as well.

The special thing about that event was having a group of children and young people in one room and next door was a group of decision-makers from across government and the non-government sector, so that really helped with making sure that what we were saying on that day was heard, not only by Mr Johnson as the advocate and by the Minister but also across the spectrum. That was heard well. Other things that came across a lot were life skills, so we got to meet with NES, the NSW Education Standards Authority, to look at the personal development, health and physical education [PDHPE] curriculum. As I said, a lot of the issues we came across were diverse and we got to work on those directly.

The CHAIR: The young people are chosen from a diverse group. Was the mix right in regard to ages, backgrounds and experience?

Mr DRAKE: I would say definitely. We got to hear a lot of diverse opinions which very much reflected the diversity of New South Wales.

The CHAIR: You outlined some of the achievements that we need to pick up on but what should we hear about the achievements from your year and any of the obstacles that you encountered in any of the challenges?

Mr DRAKE: A few of the achievements were outlined. Other achievements would include ongoing feedback to the officers' work. We are very lucky to engage with Mr Johnson almost directly in every meeting so we have a major decision-maker in the room with us as we discuss day-to-day issues that come up in our hot topic sessions when we look at what came up in society, and we then feed back on things like the violence against children campaign, and we feed back on things like Our Local, all of which have a huge and direct impact on all children in New South Wales. We did not come across many obstacles. We had members turn up to every meeting who gave a lot of feedback on the major things impacting children across New South Wales.

The CHAIR: You would recommend that future groups be a part of this?

Mr DRAKE: Definitely.

Mr DAMIEN TUDEHOPE: I am also part of another group that is conducting an inquiry into diversion schemes for Juvenile Justice. Mr Johnson, you have made a submission to that inquiry as well. I refer to young people's involvement and interaction with the justice system. Have you done any work into how that is at the moment and how it might be improved and, following on from that, the relationship and interaction between young people and the police and whether you have made any recommendations on that?

Mr JOHNSON: We have an ongoing relationship with the police from the commissioner downwards and we have regular meetings with different parts of the force. That includes going out to particular parts of the police force and providing the feedback that young people have given about the police. In relation to the justice system we had, as a matter of course, spoken to a lot of young people who had been in and out of the justice system and had been to two or three juvenile detention centres. While not in this reporting period, we are about to complete a tour of every detention centre in New South Wales, and we have committed to doing that twice per year as well as trialling exit interviews. We are hearing a lot of feedback from young people. What has been interesting for us with the focus on disadvantaged young people is that when you are talking to children who are experiencing homelessness you will also pick up things about connections to the justice system as you will with children in out-of-home care.

This Committee would be well aware from its work over many years that the intersection between out-of-home care, juvenile justice and homelessness is far too often a cycle. We are often hearing bits about improvements that need to be made as a whole system, of which juvenile justice would be a part. We have also been asked to sit on an advisory committee under the Department of Justice, the Juvenile Justice Advisory Committee, not in this reporting period but in an ongoing role. One of the things that young people say, as in any consultation with any service, is that they want further engagement from people. They talk about breaking the rules, but what they really mean in bureaucratese is individualised service delivery. They want more activities to keep them out of trouble—to use their words. The other issue that was coming up strongly was suspension from school, that maybe we can work on different ways of ensuring that suspension from school does not further add to their isolation or, in fact, become a push factor to them being involved in criminal elements.

Mr DAMIEN TUDEHOPE: I take it you do not see it as any part of your role of potentially evaluating the effectiveness of some of the diversion programs? For example, is Youth on Track a program that works? Does conference sentencing work? Are they programs that you have access to and are they effective?

Mr JOHNSON: We have a lot of engagement with the chair of the Children's Court, Judge Peter Johnson, as well as other parts of the court. They have opened their doors to us, so we often discuss what issues are coming up. Specifically in relation to what you talked about, we are very big supporters of the Youth Koori Court. What we are hearing from young Aboriginal people across the State relates to Aboriginal owned and controlled services. Self-determination is incredibly important to them finding a service or finding a solution that is going to work—whether that is hearing from Aboriginal young people in detention when they say what is working for them in detention—or programs that connect them to culture. When we ask young Aboriginal people to tell us what is working they will mention a service. If we do not know whether it is Aboriginal owned and controlled we will check and, of course, it is.

In respect of diversionary programs, particularly for Aboriginal children and young people, we need to do all we can to support the Aboriginal owned and controlled sector to assist in what young people are asking for. What they are saying is working are programs that are both grounded in culture and also connected to culture. The Youth Koori Court is an example of that. As a matter of course, people will talk to us about how Youth on Track is going. It seems from the trials and as it is being rolled out that it is working well. That is also another thing that we support and that was included in the Strategic Plan for Children and Young People. I am sorry, your third example has gone out of my head.

Mr DAMIEN TUDEHOPE: Conference sentencing that effectively brings victims and offenders into contact with each other for the purposes of facing the offence and perhaps getting some satisfaction in relation to the way in which victims see their crime being dealt with.

Mr JOHNSON: We always want to use the term that is used around the world; that is, that you have detention as a matter of last resort. Further studies talk about detention not being the right way, anyway, for children and young people in the vast majority of circumstances. Anything that moves us further down the line away from having young people in detention, the more effective the programs will be. But certainly in line with the Convention on the Rights of the Child, it is something we should be moving towards. Conferencing is another pathway as is Youth on Track and as is the Youth Koori Court. While we have many things to improve, and we will talk about those when we appear before you in May, I would say that things are heading in some areas in a positive direction in juvenile justice compared to the other States so that we are seeing a reduction of those in detention. The big issue when we are talking about young people in detention is the overall representation of Aboriginal children and young people in detention. We have to double and triple our efforts to ensure that we address that significant problem.

Mr DAMIEN TUDEHOPE: This question might be a bit out of left field, but the police adopt a strategy course, the Strategic Target Management Plan, for potentially targeting offenders and some of those offenders are young people. The police say it is an effective tool in respect of crime prevention. There seems to be alternative evidence that all it does is alienate young people from the police because they see themselves as being targeted by the police and in circumstances where it might be minor offending and the like. Have you had any feedback in relation to that process adopted by the police and whether it is something that we ought to be having a bit more of a look at?

Mr JOHNSON: We certainly need to have a look at how it is applying to children and young people. I think you are referring to studies that are saying that it may be overrepresented in its use for children and young people—we have not conducted those studies and do not have any hard evidence to say whether that is true or not. We would certainly call to not have the Suspect Targeting Management Plan apply to children. Applying to children and young people concurs further angst and our recommendation, along with many other

organisations, is that—along the lines that you were referring to—its application stops in use for those under the age of 18.

The Hon. GREG DONNELLY: In terms of providing an update on the work done in the area of the sexualisation of children and young people, I thank you for the answers given to the questions on notice. As you know, the report was published in November 2016 and there were some recommendations directed to the Advocate for Children and Young People. Could you provide an update on that? I have been reflecting on the issues around the work done with the eSafety Commissioner. Obviously that can provide assistance and advice to parents who are trying to have discussions with their children about these matters, but young people these days are fully enabled on the internet with smartphones. I am pondering how we are engaging with young people directly and are discussing with them some of the problems and issues associated with the consumption of this material, particularly for young males.

Mr JOHNSON: Just as an update on this, we brought along with us in case it was useful the two pieces of research about sexualisation that take it further. The one by the Australian Institute of Family Studies, which we have copies of for everybody, further iterates the success and importance of the inquiry that this Committee undertook. Having read through that, I do not think that we learned anything different than we did through the report that came out from this Committee. In relation to updates—I have just been handed the two reports that we will provide to the Committee: the Australian Institute of Family Studies report and the image-based abuse national survey. Moving forward with your recommendations, young people were calling for offences around what is colloquially called "revenge porn", which is the sharing of non-consensual intimate images. We know that there is action happening in this area, but particularly for children and young people we would like to see that they are not caught up in the child pornography offences.

That is similar to Victoria, which we had spoken about altogether and had recommended that there be a different approach. It is good to see that there is action being taken to make that happen. We need to ensure collectively that it does happen. We need to get more information to children and young people. To that end, as you have seen, we have met with the eSafety Commissioner several times—we met with her very early. We were working very closely with the former eSafety children's commissioner, now with the expanded remit. Our office meets with them on a regular basis to share information about what children and young people are doing and using. You quite rightly pointed out that we did a piece of research during this reporting period about how young people are using digital spaces. It will not surprise anyone to know that most information is received by children and young people on a mobile platform. So if we are producing information that is not mobile platform ready or useful then we are missing the mark.

The reason we have a lot of video work and have a videographer on staff is that all human beings, including those under the age of 25, are going to digest information in this digital age more readily and more easily with videos. As you would be aware, there are a lot of video materials on the eSafety Commissioner's website. The other thing moving forward as an update is that many of you were familiar with the young thinking series that we have been holding. During the reporting period it was brain science, the violence conference and child rights programming.

We are wanting to do one that looks at the intersection in the digital age, sexting and maintaining relations for children and young people. That will include bringing experts from around the State and the country to talk about what people working with children and young people need to know to get the information out—not just the eSafety Commissioner but other people who work with children and young people and deal with this difficult issue. A further point to carry on the great work of the Committee was that during that period—not in the reporting period—we did a piece of work to find out what resources parents need and what are the issues that parents need. We will be able to come back to you and say whether this is one of the issues—I am sure it will be—that parents need more support on or where to go for information.

Ms JODIE HARRISON: Are there any particular issues that you think warrant an inquiry like the one into the sexualisation of children and young people that this Committee should be putting on the agenda for the future?

Mr JOHNSON: It is always one of those difficult questions to answer because I have got 100 answers—I think one of the key areas that keeps on coming back from children and young people is the applicability of services that are tailored for children and young people and how we make that happen, whether it is in homelessness, services for violence or drug and alcohol support. How do we make a system more effective? The other thing that we have been looking at and doing some intensive work on this year is how to systematise children's voice within a very complex system, whether it be in the courts, schools, or detention centres. We will be coming with some recommendations to government, hopefully with fellow travellers in the Committee, about how to extend that.

I think we are doing a good job at setting up processes for children's voice, but how do we make that more real across the system? As you all know, if you are implementing something it has got to be understandable and easy. Obviously the other thing that comes up a lot is access to cultural and cross-cultural programs for children and young people, specifically for Aboriginal children and young people. How do we do better for the Aboriginal community in a controlled sector to better support Aboriginal children and young people in their communities? They would be some of the big things that we are hearing from children and young people themselves.

The CHAIR: Recently the Committee conducted inquiries into volunteering and the sexualisation of children and young people, and at the moment we are conducting an inquiry into youth suicide. Mr Drake, from your work on the council, do you have any ideas on what we should be focusing on for our next inquiry? Would you agree with what Mr Johnson has just outlined?

Mr DRAKE: What Mr Johnson has outlined does ring true with what we talked about on the council. We did not talk specifically about an inquiry, but perhaps this year's council, if given the opportunity, could come up with some suggestions for the Committee that could be feed through the advocate.

The CHAIR: It would show that we are listening to the voice of young people.

Mr JOHNSON: I have an upcoming meeting in two weeks with the council. We would be happy to take that question to the council and provide the Committee with their input.

The CHAIR: Thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to any further questions?

Mr JOHNSON: I would.

Mr DRAKE: I would.

The CHAIR: Thank you. That concludes the public hearing today. I would like to again place on record my thanks to the advocate, the guardian and other witnesses who appeared today, and to the members of the public who have shown interest in the Committee's inquiry. I thank all Committee members for their contribution, Hansard and the Committee staff for their work today and their work in preparing to get us to this point.

(The witnesses withdrew)

(The Committee adjourned at 15:39)