

# Sector guide

## Information for employers

January 2015



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## 1. Overview of the new Check

A Working With Children Check is a prerequisite for anyone in child-related work in NSW. The new Check covers more people, is more comprehensive and provides better protection for children than the previous model. It is also more consistent with other state and territory Checks, giving us the starting point for a national Check.

A Working With Children Check includes a national police check and review of findings of misconduct involving children. The result is either a clearance or a bar.

If the outcome is a clearance, the Check is valid for five years and may be used for any child-related work (paid or voluntary) in NSW. Cleared applicants will be subject to ongoing monitoring and relevant new records could lead to a bar and the clearance being revoked.

Before engaging a new, paid, child-related worker, an employer must ensure the worker has a clearance to work with children, or a completed Check application in progress. Existing workers and volunteers should be verified online as they are phased in to the new Check.



Scan to view our  
[Online tutorials](#)

The only way to accurately determine a person's clearance status is by verifying their Working With Children Check online; paper evidence of a clearance should not be accepted.

The Working With Children Check is not the only resource available to employers to provide better protection for children. Implementing child-safe and child-friendly policies and procedures is an essential part of creating a child-safe organisation.

For more information, go to [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au)

## 1.1. Employer responsibilities

Employers must:

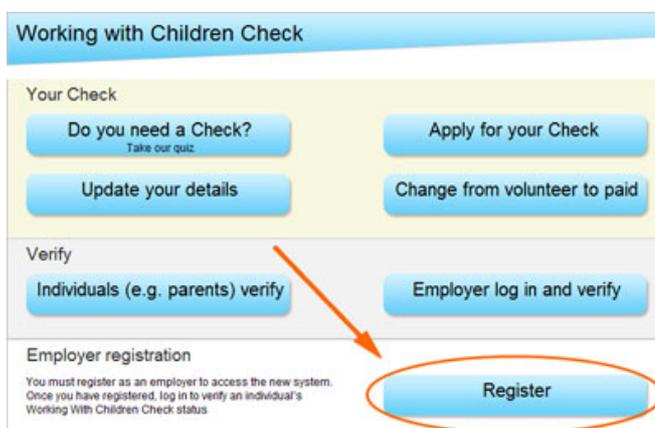
- Register online with the new Working With Children Check (see part 2)
- Verify every new paid employee online before hiring them (see part 7)
- Verify current paid workers and all volunteers (new and current) online as they are phased in to the new Check (see phase in schedule at ANNEX A)
- Ensure their own Working With Children Check is verified online by an appropriate person in the organisation (employers cannot self-verify)
- Remove any barred or unauthorised person from child-related work (see part 10)

## 2. Register as an employer

Even if you were previously registered under the old system, you must still register with the new online Working With Children Check for child-related work.

The process to register is quick and simple:

1. Go to [www.kidsguardian.nsw.gov.au/check](http://www.kidsguardian.nsw.gov.au/check).
2. Click the *Start here* button on the right hand side of the page.
3. In the Employer registration section, click *Register*.
4. This will take you to the registration form. Enter your organisation's name, address and ABN. You will also need to nominate at least one person (maximum of two people) within your organisation who will be notified in the event a child-related worker becomes barred.
5. Click *Submit*.



If you need help, there is a video tutorial on the Employer registration process, available from [www.kidsguardian.nsw.gov.au/check](http://www.kidsguardian.nsw.gov.au/check). Look for 'Online tutorials' under the Seminars and events section.

## 3. Who needs a Working With Children Check?

The Check is only available for child-related workers. There are other screening tools available for non child-related workers.

Organisations are also strongly encouraged to adopt child-safe policies and practices to help keep children safe. For more information about creating child-safe organisations or to register for a workshop, go to <http://www.kidsguardian.nsw.gov.au>.

Child related work is defined as face-to-face contact with children in a child-related sector or work in a child-related role.

### **3.1. Child-related industry sectors**

Face-to-face work with children in one of these sectors is child-related work:

- Child development and family welfare services
- Child protection
- Children’s health services
- Clubs or other bodies providing services for children
- Disability services
- Early education and child care
- Education
- Entertainment for children
- Justice centres
- Religious services
- Residential services
- Transport services for children
- Youth workers
- School cleaners

For more information about each of these sectors, see [Child Protection \(Working With Children\) Regulation 2013](#), Part two “Child-related work”.

### **3.2. Child-related roles**

The following roles are classified as child-related work:

- An approved provider or manager of an education and care service
- A certified supervisor of an education and care service
- An authorised carer (foster carers and other authorised carers of children in statutory and supported out-of-home care)
- An Assessment Officer
- The Principal Officer of a designated agency
- The Principal Officer of an accredited adoption service provider

### **Additional roles requiring a Working With Children Check**

- Prospective adoptive parents
- An adult who resides at the home of:
  - an authorised carer
  - family day care service provider
  - home-based education and care service provider.

An employer may also apply to the Children’s Guardian to have a role designated as child-related if it involves access to confidential records regarding children. A role may not be designated as child-related without the written permission of the Children’s Guardian.

### 3.3. Exemptions

There are specified exemptions from the Working With Children Check under Part 4, Clause 20 of the *Child Protection (Working With Children) Regulation 2013*. People covered by these exemptions are not required to have a Working With Children Check:

- Administrative, clerical or maintenance work, or other ancillary work, that does not ordinarily involve contact with children for extended periods.
- Work for a period of no more than five days in a calendar year, if the work involves minimal direct contact with children or is supervised when children are present.
- Informal domestic arrangements not carried out on a professional or commercial basis.
- Work with close relatives of the worker (not including work as a foster carer or other authorised carer of children in statutory and supported out-of-home care).
- Volunteering by a parent or close relative:
  - of a child in activities for the child's school, early education service or other educational institution; except where the work is part of a formal mentoring program or involves intimate personal care of children with a disability
  - with a team, program or other activity in which the child usually participates or is a team member; except where the work is part of a formal mentoring program or involves personal care of children with a disability.
- A visiting speaker, adjudicator, performer, assessor or other similar visitor at a school or other place where child-related work is carried out if the work of the person at that place is for a one off occasion and is carried out in the presence of one or more other adults.
- A health practitioner in private practice, if the practice does not ordinarily involve treatment of children without one or more other adults present.
- A health practitioner who is working in and visiting New South Wales from outside the State, if the period of work does not exceed a total of five days in any period of three months.
- A co-worker or work supervisor where a child works.
- Work by an interstate visitor:
  - in a one-off event such as a jamboree, sporting or religious event or tour, if the event is the only child-related work carried out by the worker in NSW in that calendar year and the period of work does not exceed 30 days
  - who holds an interstate working with children check, or is exempt from the requirement to have such a check in his or her home jurisdiction, whose child related work in NSW is for no more than 30 days in any calendar year.
- NSW Police or Australian Federal Police officers in their capacity as police officers.
- Home carers accredited with a current police certificate for aged care, for home care work where the clients are not primarily children.
- People under the age of 18.

#### Non-child related work

Under Part 2 of the *Child Protection (Working With Children) Regulation 2013*, some work is not considered to be child-related, which means it will not require a Working With Children Check. This includes:

**Clause 6 (4)** Work as a student in the course of a student clinical placement in a hospital or other health service is not child-related work

**Clause 7 (3)** Work as a referee, umpire, linesperson or otherwise as a sporting official or a groundsperson is not child-related work, if the work does not ordinarily involve contact with children for extended periods without other adults being present

**Clause 8 (2)** Work in providing respite care or other support services primarily for children with a disability is child-related work; **but it is not child-related work** if the work does not ordinarily involve contact with children for extended periods without other adults being present.

**Clause 11 (3)** Providing food or equipment at or for a sporting, cultural or other entertainment venue or providing a venue is not child-related work.

## 4. How workers apply for a Check

A child-related worker is responsible for applying for his or her own Working With Children Check. **An employer cannot apply on behalf of a worker.** Application is a simple, two-step process:

### STEP 1

Applicants complete an online form at [www.kidsguardian.nsw.gov.au/check](http://www.kidsguardian.nsw.gov.au/check). Once they have submitted the form, they will receive an application number.

There is an online tutorial available from the News, training and events section of [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au) to help applicants to fill in the online form.

### STEP 2

Applicants take their application number and proof of their identity to a NSW Motor Registry, Government Access Centre, or Service NSW office. Find a location at [www.service.nsw.gov.au/service-centre](http://www.service.nsw.gov.au/service-centre). Proof of identity for the Working With Children Check is the same as for a NSW photo driver licence. If they are in paid work, they must also pay an \$80 fee for a five-year clearance. See also: [FACT SHEET: How to apply](#)

**PLEASE NOTE:** An applicant must appear in person to prove their identity – this task cannot be delegated to a third party. Proof of identity must also be performed within NSW. It cannot be completed from interstate or overseas.

**The fee is not refundable if the worker terminates or withdraws their application; if they do not receive a clearance; or if they choose ‘paid worker’ instead of ‘volunteer’ on their application form.** The Working With Children Check remains free for:

- Volunteers
- Prospective adoptive parents
- Authorised carers (foster carers and other authorised carers of children in statutory and supported out-of-home care)
- An adult who resides at the home of:
  - an authorised carer
  - a family day care service provider
  - a home-based education and care service provider.

### 4.1. Results of a Check

If the worker receives a clearance, he or she will be issued with a Working With Children Check number. The worker must provide this number to their employer, along with their surname and

date of birth for online verification. **This is critical. Employers should not accept the worker's notification letter or email as proof of their clearance.**

If the outcome of online verification is 'cleared' or 'application in progress' the worker may begin working with children immediately. Cleared applicants may use their Working With Children Check for any child-related work in NSW for five years. They are also subject to ongoing monitoring for relevant new records which may lead to the clearance being revoked before it is expired (i.e. barred from working with children).

Barred applicants must not engage in any child-related work (paid or unpaid). It is an offence for them to do so and penalties apply. It is also an offence to hire a barred worker for child-related work, paid or unpaid.

## 4.2. When to apply

- **Paid child-related workers starting a new job** must apply for a Check before they begin their new role (and must be verified by their employer before they start).
- **Paid child-related workers who are already working** do not need to apply until their industry sector is being phased in (see the phase in schedule at ANNEX A for details).
- **Volunteers (new and current)** will also be phased in according to their industry sector. (See the phase in schedule at ANNEX A for details).
- **Self employed people** who hold a Certificate for Self Employed People (CSEP) may continue to use their CSEP until it expires. To check the validity of a CSEP, call a Customer Support Officer on (02) 9286 7219 and quote the CSEP number. Self-employed people who do not have a CSEP or whose CSEP has expired, must apply for the Check when the sector they are working in is phased-in for the Working With Children Check.

## 5. What records are checked?

A Working With Children Check includes a national police check and review of findings of misconduct involving children. For more information, refer to the [What gets checked?](#) section of the website at [www.kidsguardian.nsw.gov.au/check](http://www.kidsguardian.nsw.gov.au/check).

## 6. Risk assessment

### 6.1. What triggers a risk assessment?

A risk assessment is an evaluation by the Office of the Children's Guardian of an individual's eligibility for child-related work. It will be triggered by:

- an offence listed in Schedule 1 of the [Child Protection \(Working With Children\) Act 2012](#) (equivalent records from other states and territories are also assessment triggers)
- a pattern of behaviour or offences involving violence or sexual misconduct that represents a potential risk to children (even if the records are not individually listed on Schedule 1 or 2)
- findings of misconduct reported by a reporting body
- notifications by the Ombudsman.

Schedule 1 records are listed in **FACT SHEET: Assessment requirement triggers - Schedule 1** available from the [fact sheets and resources page](#) of [www.kidsguardian.nsw.gov.au/check](http://www.kidsguardian.nsw.gov.au/check).

## 6.2. How is risk assessed?

When assessing risk, the following factors set out in section 15 of the [Child Protection \(Working With Children\) Act 2012](#) must be considered:

### Factors relating to the conduct:

- seriousness (as demonstrated by details of the conduct, court outcome and penalty)
- length of time since it occurred
- age and vulnerability of the victims
- relationship between offender and victim(s)
- age difference between offender and victim
- whether the offender knew or could have known the victim was under 18

### Factors relating to the applicant:

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

### Factors relating to recurrence:

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

The Office of the Children's Guardian must also take into consideration any information given in or in relation to the application, and any other matters considered necessary.

## 6.3. Communication during the risk assessment process

The Office of the Children's Guardian will keep the applicant informed during the risk assessment process. If a bar is being considered, the applicant will be contacted and informed of the potential decision and invited to submit information which may affect the outcome of the final decision.

If the final outcome is a bar, notification will be issued by post. In most cases, barred workers can apply for a review of the decision to the [NSW Civil and Administrative Tribunal](#). For more information refer to the **FACT SHEET: Bars and appeals**, available from [the fact sheets and resources page of \[www.kidsguardian.nsw.gov.au/check\]\(http://www.kidsguardian.nsw.gov.au/check\)](#).

## 7. Verifying a child-related worker

**PLEASE NOTE:** Verification can only be completed online. You cannot accept letters of clearance from workers because these documents may be falsified or the worker may have become barred since receiving their initial clearance.

Online verification is a crucial part of the new Working With Children Check and it is the **only** accurate report of a worker's clearance status.

The process also connects workers to employers, which allows the Office of the Children's Guardian to immediately notify an employer if a worker becomes barred.

## 7.1. When to verify workers

- New paid workers need to be verified online before they can begin working with children.
- Current paid workers and all volunteers (new and current) need to be verified online once they have been phased in to the new Check. (See the phase in schedule at ANNEX A).

## 7.2. APP number vs WWCC number for online verification

Existing child-related workers and volunteers in your employment will need to provide you with a WWCC (Working With Children Check) or APP (application) number to be verified online as they are phased in, according to your industry sector. (See the phase in schedule at ANNEX A).

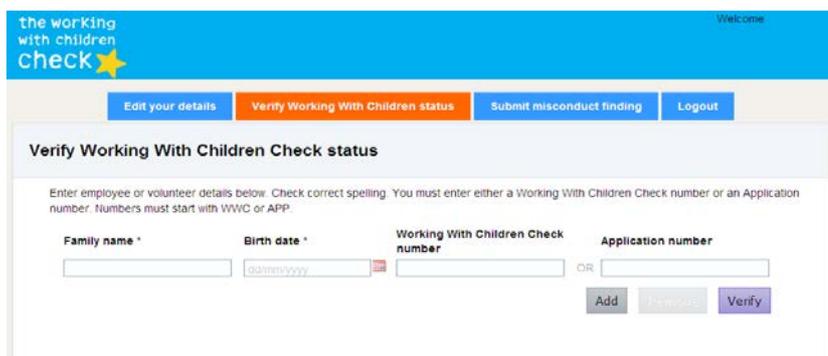
If a worker is barred, they will not be issued with a WWCC number, so waiting for a WWCC number is not always the safer option. It is better to verify existing workers online using their APP number.

You can also verify a new paid worker's clearance online using their APP number.

An APP number is valid for the online verification process as soon as the worker has completed the proof of identity requirement at a NSW Motor Registry, Government Access Centre, or Service NSW office. Find a location at [www.service.nsw.gov.au/service-centre](http://www.service.nsw.gov.au/service-centre).

## 7.3. How to verify a Working With Children Check status online

1. Go to [www.kidsguardian.nsw.gov.au/check](http://www.kidsguardian.nsw.gov.au/check) and click the *Start here* button on the right. A new page will appear.
2. Choose *Employer log in and verify* from the Verify section then enter your login details. If you have not already registered as an employer, please choose *Register*.
3. Select the *Verify Working With Children status* tab.
4. Enter the worker's:
  - surname
  - date of birth
  - Working With Children Check number (or application number)
5. Click *Verify*.



The screenshot shows the 'Verify Working With Children Check status' page on the 'the working with children check' website. The page has a blue header with the logo and a 'Welcome' message. Below the header is a navigation bar with buttons for 'Edit your details', 'Verify Working With Children status', 'Submit misconduct finding', and 'Logout'. The main content area is titled 'Verify Working With Children Check status' and contains a form with the following fields: 'Family name \*', 'Birth date \*', 'Working With Children Check number', and 'Application number'. There is an 'OR' separator between the 'Working With Children Check number' and 'Application number' fields. Below the form are three buttons: 'Add', 'Cancel', and 'Verify'.

## 7.4. Understanding the results of online verification

Once you have submitted these details, a brief report will appear on-screen. The table below provides the possible results and their meaning.

Status	Meaning
Application in progress	A Working With Children Check application is being processed and the applicant may work with children. If the applicant becomes barred, the Commission will contact you and advise you of what to do next.
Cleared	This applicant has a Working With Children Check clearance that is valid until the listed expiry date.
Barred	The applicant has been barred from working with children and it is an offence to engage this person in child-related work or child-related roles.
Interim barred	The applicant has been barred from working with children during the course of a risk assessment. It is an offence to engage this person in child-related work or child-related roles.
Not found	The database cannot find a matching Working With Children Check for any one of these reasons: The data entered for verification (name, date of birth and Working With Children Check number or application number) has errors; The person's application has been withdrawn or terminated without an outcome; The person has not completed an application for a Working With Children Check (filled in the online form, presented proof of identity and paid any applicable fee). It is an offence to engage this person in child-related work or child-related roles.

## 8. Record keeping

Workers will be reminded to renew their Check three months before it expires but no notification will be sent to employers. This is because workers are responsible for applying and renewing their own Working With Children Checks; and employers have responsibility for verifying the status of Working With Children Checks.

Employers are required to keep records of child-related workers including their:

- full name
- date of birth
- Working With Children Check number (or application number) and expiry date
- date and outcome of online verification

These records may be electronic or in hard copy format, but must be made available if required for audit and monitoring purposes.

## 9. Notifications

The Working With Children Check is valid for five years and during this time, cleared applicants will be subject to ongoing monitoring.

If a relevant new record appears it may lead to the worker becoming barred before the Check's five year expiry date. If this happens, the employer will be notified using information supplied during the online verification process. **If you have not verified the worker online, the Office of the Children's Guardian may not be able to notify you immediately if that worker is barred.**

If the worker has been verified by more than one employer (for example, if he or she has a paid job as well as a volunteering role), notification will be sent to each employer who has verified that worker.

**PLEASE NOTE:** Only the worker's status will be shared with the employer. No other information – including details of work and/or criminal records will be shared.

Notification will be sent by letter, addressed to the individual who verified the worker. The letter will outline the legal implications of a barred status and the action required by the employer.

## 10. Workers not authorised to work with children

You cannot employ a worker for child-related work (paid or unpaid) if the outcome of their online verification is:

- barred
- interim barred
- not found

If you receive a letter advising you that a current employee or volunteer has become barred (or has an interim bar) you must immediately remove them from child-related work. It doesn't matter whether they are paid or unpaid; supervised or unsupervised.

Your options are:

- dismiss the worker
- suspend them from child-related work pending the outcome of an appeal
- transfer them to a non child-related role within the business (although you are under no legal obligation to find an alternative position for a barred worker).

**PLEASE NOTE:** The courts cannot order the re-employment of a person for child-related work if the person is barred from working with children. Damages or compensation are not payable to a worker who has been removed from child-related work because they are barred from working with children.

See **FACT SHEET: Bars and appeals** available from [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au).

## 11. Findings of misconduct involving children

Findings of misconduct by a reporting body that the following conduct occurred will trigger a risk assessment:

- sexual misconduct committed against, with or in the presence of a child, including grooming a child
- any serious physical assault of a child.

A reporting body is defined and listed in section 35 of the [Child Protection \(Working With Children\) Act 2012](#). Additional reporting bodies are prescribed in clause 25 of the [Child Protection \(Working With Children\) Regulation 2013](#).

See **Information for reporting bodies: Reporting certain misconduct involving children**, available from [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au).

## 12. Privacy and confidentiality

The Office of the Children's Guardian will maintain a register for Working With Children Checks.

### 12.1. Information about a person that may be shared

The following information about a person contained in this register may be made available by the Office of the Children's Guardian to an employer or proposed employer on request by the employer or proposed employer:

- The Working With Children Check application number of any worker;
- The current Check status of a child-related worker;
- The number, type (volunteer or non-volunteer) and expiry date of a Working With Children Check held by a child-related worker.

The Office of the Children's Guardian must not make this information available unless the request is made in an approved format and contains the particulars required by the Office of the Children's Guardian.

### 12.2. Information about an employer that may be shared

The following information about an employer contained in the register may be made publicly available by the Office of the Children's Guardian:

- the trading name or registered business name of the employer
- the child-related work for which the employer engages a child-related worker
- the postcode or name of the place in which the employer's business is located
- whether any requests for information regarding a Check status were made to the Children's Guardian by the employer within a specified period

## 13. More information

If you have any questions regarding the new Working With Children Check, please refer to the fact sheets and resources page of the website at [www.kidsguardian.nsw.gov.au/check](http://www.kidsguardian.nsw.gov.au/check). Alternatively, email your query to [check@kidsguardian.nsw.gov.au](mailto:check@kidsguardian.nsw.gov.au) or call (02) 9286 7219.

From our website, you can also register for a free information session, sign up for fortnightly Check e-news or learn more about child-safe organisations.

Information on the NSW Ombudsman's role in [Employment-related child protection](#) is available from [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

**Disclaimer:** This material is provided for guidance only. Every effort has been made to ensure that the information is accurate, current and not misleading. However, this cannot always be guaranteed and no warranty is given that the information is free from error or omission. Users should exercise their own skill and care with respect to the use of the material. The information is also not a substitute for independent legal or other professional advice and users should obtain appropriate professional advice relevant to their particular circumstances.

The Office of the Children's Guardian does not guarantee, and accepts no legal liability whatsoever for any act done, omission made, loss, damage, cost or inconvenience arising from, connected to, or as a consequence of, using or relying on the material contained in this document.

# ANNEX A: Phase-in schedule

## Fact sheet 2

### Phase-in schedule for existing workers

October 2014



- **Already working with children?** You will be phased in between now and 2018. Find your industry sector in the chart below.
- **Volunteering?** You will also be phased in. Find your industry sector on the chart below.
- **Self-employed?** Apply when your Certificate for Self-Employed People (CSEP) expires, or if you do not have a CSEP, when your sector is phased in
- **Starting a new job?** Apply before you start work.

Not sure which sector you belong to? See [FACT SHEET: Which sector do I belong to?](http://www.kidsguardian.nsw.gov.au/check) at [www.kidsguardian.nsw.gov.au/check](http://www.kidsguardian.nsw.gov.au/check).

INDUSTRY SECTORS – Phase-in dates				
15 Jun 2013 to 31 Mar 2014	1 Apr 2014 to 31 Mar 2015	1 Apr 2015 to 31 Mar 2016	1 Apr 2016 to 31 Mar 2017	1 Apr 2017 to 31 Mar 2018
<ul style="list-style-type: none"> <li>• Child protection</li> <li>• Disability services</li> <li>• Justice services</li> <li>• Religious services (work as a minister, priest, rabbi, mufti or other like religious leader or spiritual officer of the organisation)</li> <li>• Youth workers</li> <li>• Authorised carers*</li> <li>• Adults who reside in the home of an authorised carer or family day care service provider or home-based education and care service provider</li> </ul>	<ul style="list-style-type: none"> <li>• Child development and family welfare services</li> <li>• Religious services (work in roles including youth groups, youth camps, teaching children and child care)</li> <li>• Residential services</li> <li>• Transport services for children</li> <li>• Principal Officer of                             <ul style="list-style-type: none"> <li>• a designated agency</li> <li>• registered agency that provides voluntary out-of-home care (not those that arrange voluntary out of home care)</li> </ul> </li> <li>• accredited adoption service provider</li> <li>• Members of governing body of                             <ul style="list-style-type: none"> <li>• a registered agency that provides voluntary out-of-home care (not those that arrange voluntary out of home care)</li> <li>• designated agency</li> <li>• accredited adoption service provider</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Clubs or other bodies providing services to children (including sporting bodies)</li> <li>• Entertainment for children</li> <li>• Assessment of reportable matters (assessment officer)</li> </ul>	<ul style="list-style-type: none"> <li>• Children's health services (Local Health Districts)                             <ul style="list-style-type: none"> <li>- Central Coast LHD</li> <li>- Hunter New England LHD</li> <li>- Illawarra Shoalhaven LHD</li> <li>- Mid North Coast LHD</li> <li>- Northern NSW LHD</li> <li>- South Eastern LHD</li> </ul> </li> <li>• Education - Secondary schools</li> <li>• Education - Vocational</li> <li>• Education - Private tuition and coaching</li> </ul>	<ul style="list-style-type: none"> <li>• Children's health services - All remaining LHDs</li> <li>• The Sydney Children's Hospitals Network (Randwick and Westmead)</li> <li>• Justice Health and Forensic Mental Health Network</li> <li>• Ambulance Service of NSW</li> <li>• Children's Health – remaining services</li> <li>• Early education and child care</li> <li>• Education – all remaining services</li> <li>• Education and care service – approved provider, manager or certified supervisor</li> </ul>

\*Foster carers and other authorised carers of children in statutory and supported out-of-home care.

**Disclaimer:** The material provided in this Fact Sheet is for guidance only. Every effort has been made to ensure the information is accurate, current and not misleading. However, this cannot always be guaranteed and no warranty is given that the information is free from error or omission. Users should exercise their own skill and care with respect to the use of the material. The information is also not a substitute for independent legal or other professional advice and users should obtain appropriate professional advice relevant to their particular circumstances. The Office of the Children's Guardian does not guarantee, and accepts no legal liability whatsoever for any act done, omission made, loss, damage, cost or inconvenience arising from, connected to, or as a consequence of, using or relying on the material contained in this Fact Sheet.