

## FACTSHEET: NSW CHILD SAFETY AND WELLBEING COMMISSION

### Why do we need a NSW Child Safety and Wellbeing Commission?

All children should be safe and with their families.

When children and families need support for children to feel and be safe, it is important that we have mechanisms to make sure the support given helps and does not harm them.

Countless reports and inquiries have confirmed that existing accountability mechanisms in the NSW child protection system are not adequate, effective or coordinated. Regulatory and oversight functions are fragmented and costly.

A NSW Child Safety and Wellbeing Commission ('NSW Children's Commission') would change this. A Commission would reduce duplication, consolidate existing functions, and serve as a 'one-stop shop' for the regulation and oversight of the NSW child protection system.

A NSW Children's Commission would be the first of its kind in the country. The establishment of a Commission is an opportunity for the NSW Government to be a leader in protecting the safety and wellbeing of children.

A Commission would be a circuit-breaker to cycles of harm, would help to restore trust and confidence in the NSW child protection system, and help children to feel and be safe, when they most need support.

### What would a NSW Children's Commission do?

The NSW Children's Commission would be independent from government and would work to improve child protection outcomes for children and families in NSW.

A Commission would consolidate and streamline existing regulatory and oversight functions into a single independent body. The Commission would also add new functions like complaint handling and investigations, to ensure effective and comprehensive oversight and accountability of the child protection system.

A NSW Children's Commission would hold the whole system to account for decisions about the safety and wellbeing of children in the NSW child protection system – to ensure all decisions are made properly, in the best interests of children, their families and communities.

### How would a Commission work?

A Commission would work to improve outcomes for children and families involved with the NSW child protection system.

The Commission's key functions would include:

- empowering more families to stay safe and together, and setting and enforcing standards to prevent child removals and restore children to their families wherever possible;
- overseeing and promoting the cultural rights of Aboriginal and Torres Strait Islander children, including monitoring compliance with the Aboriginal and Torres Strait Islander Principles and the Aboriginal Case Management Policy;
- handling complaints about the child protection system;
- accreditation and monitoring of out-of-home care ('OOHC') providers;
- reviewing the circumstances of children in OOHC, including the power to apply to the NSW Children's Court to vary or revoke care orders;
- conducting inquiries into systemic issues; and
- making recommendations to improve child protection policy and practice.

### What is the difference between a NSW Children's Commission and a NSW Commissioner for Aboriginal Children and Young People? How would they work together?

A NSW Children's Commission and a NSW Commissioner for Aboriginal Children and Young People are different mechanisms to strengthen accountability for decisions made about children.

Both a Commission and a Commissioner would help to keep children safe and promote their rights, interests and wellbeing in accordance with the government’s commitments under the *National Agreement on Closing the Gap and Safe and Supported: National Framework for Protecting Australia’s Children 2021-2031*.

But there are a few key differences:

Feature	NSW Children’s Commission	NSW Commissioner
Structure	Statutory body (‘Commission’)	Individual (‘Commissioner’)
Focus	Child protection system	All government systems affecting children and young people (health, housing, education, justice etc)
Children represented	All children and young people in NSW	Aboriginal and Torres Strait Islander children and young people in NSW, who are over-represented and experience systemic inequity across all government systems

A Commission and a Commissioner are complementary, and the NSW Government could implement these reforms simultaneously. A Commission and a Commissioner could work independently and together to improve outcomes for children and strengthen accountability of systems that affect the rights and interests of children across the state.

Together, a Commission and Commissioner would support families to stay safe and together and ensure that more is done to bring children home.

Both a Commission and a Commissioner are independent from government, and need to be fully legislated, fully empowered and fully funded to drive meaningful and lasting change.

#### How much would a Commission and Commissioner cost?

A Commission would reduce costs wasted through duplication of functions and result in significant savings by consolidating regulatory functions, preventing unnecessary removals, and increasing restorations.

The establishment of both a Commission and Commissioner would cost \$13 million in additional funding, which is just over 1% of the Child Protection Package included in the 2025-26 Budget, and less than 0.5% of the \$3 billion spent annually on child protection in NSW.

A Commission and Commissioner are essential investments in good governance, continuous improvement of the child protection system, and keeping kids safe.

#### Why is existing oversight insufficient?

Existing regulatory and oversight functions for the child protection system in NSW are fragmented and piecemeal. The Family is Culture Review was highly critical, finding existing oversight bodies ‘deficient and unsatisfactory’ and observing that they lack ‘effectiveness, transparency, independent oversight and coordination’.

The **Office of the Children’s Guardian (‘OCG’)** accredits OOHC agencies, administers the Working with Children Check scheme and oversees implementation of the Child Safe Standards and the Reportable Conduct Scheme. The OCG’s focus is on compliance by OOHC providers. The OCG is not involved across the child protection continuum, does not handle complaints, and does not monitor system performance.

The **NSW Ombudsman** investigates complaints about government agencies and reviews deaths in OOHC. The Ombudsman’s complaint function relates to proper administration by government agencies, not necessarily extending to the quality or value of government actions or services. The Ombudsman is reactive and case-based, with no power to monitor system performance and little power to drive system improvement.

The **Advocate for Children and Young People (‘ACYP’)** enables participation in government decision-making for children in NSW. The ACYP is participatory and advisory, not having any powers to hear complaints, investigate or compel action, beyond its power to hold and report on the results of a special inquiry. Amplifying the voices of children is important, but the ACYP lacks the ability to drive meaningful system improvements.

There is currently no single, independent, expert body which can hear and determine complaints, monitor system performance, initiate systemic investigations and provide advice to government specific to the child protection system. This is the role that a Commission would play.