

## Children's Guardian Act 2019

**Councils may need to update processes, policies and training to help ensure the safety of children and to adopt the changes in the NSW Children's Guardian Act 2019, which was passed by NSW Parliament on 21 November 2019.**

The *Children's Guardian Act 2019* (the **Act**) is the NSW Government's most recent response to the Royal Commission into institutional responses to child sexual abuse.

Relevantly to councils, the Act enables the Children's Guardian to regulate out-of-home care of children and administer a reportable conduct scheme to prevent, identify and respond to child abuse. The Children's Guardian also has new powers under the Act to investigate and conduct inquiries into reports about allegations of child abuse by employees of children's services.

All councils, county councils and Joint Organisations are *relevant entities* for the purposes of the Act. This means that councils will have obligations to investigate *reportable allegations*, which are allegations that an employee who is engaged to provide services to children or who is required to hold a Working with Children Check (**WWCC**) has engaged in sexual offences, neglect or assault or ill-treatment of a child, and to make determinations about *reportable convictions*, which are convictions for an offence.

The Act requires an employee of an approved education and care service to report to the general manager of the council a reportable allegation or reportable conviction that relates to an employee of the service.

The Act also requires a relevant entity to have a code of conduct and policies in place to prevent and detect reportable conduct by employees of the entity.

The Act strengthens the reportable conduct scheme by extending it to cover contractors and volunteers who are required to hold a WWCC and extends it to cover the outside-work conduct of employees of public authorities, such as councils, who are required to hold a WWCC.

The Act consolidates:

- the Office of the Children's Guardian's responsibilities into one Act. It also transfers the reportable conduct scheme and oversight of the Official Community Visitors scheme for out-of-home-care services from the Ombudsman to the Children's Guardian. This brings responsibility for the reportable conduct scheme under the same agency that administers the WWCC.

The Act extends:

- existing protections for people who make reports to the Department of Communities and Justice in good faith by providing these reporters with protection against all civil and criminal liability.

Further information is available in the [parliamentary speech](#) by Gareth Ward MP, Minister for Families, Communities and Disability Services or on the [website](#) of the Office of Children's Guardian.

Councils requiring assistance with legal responsibilities can contact LGNSW's Legal Officer on 9242 4125.

Councils requiring assistance with prevention and child safe institutions can contact [Elizabeth Robertson](#), LGNSW Senior Policy Officer, on 9242 4028.