



NSW OFFICE FOR CHILDREN

**the Children's
Guardian.**

Dr Neil Shepherd AM
Director-General
Department of Community Services
Locked Bag 4028
ASHFIELD NSW 2131

Dear Dr Shepherd

I recently met with ACWA's CEO and Chairperson where I raised the issue of principal officers of non-government designated agencies being required to have direct face-to-face contact with children and young people placed with the agency as part of their role statements.

Whilst many principal officers will, as a matter of practice, have direct contact with children and young people in care, failure to recognise this responsibility in their role statements means they are not subject to the Working With Children Check (WWCC) provisions of the *Commission for Children and Young People Act 1998* ("the CCYP Act").

This has been confirmed by the Crown Solicitor and Commission for Children and Young People. For the purposes of Part 7 of the *Commission for Children and Young People Act 1998*, employment as a principal officer is not considered child-related employment unless the position primarily involves contact with children and young people (ie: contact with children and young people is an essential requirement of the job). The carer assessment provisions of the *Children and Young Persons (Care and Protection) Regulation 2000* ("the Regulation") also do not apply to principal officers – they only apply to carers authorised by a designated agency.

I believe that current arrangements that do not require WWCCs for principal officers are of concern, particularly given principal officers have statutory responsibility for assessing and authorising all of a designated agency's authorised carers.

Children and young people are the focus of a designated agency's work so it is important that the principal officer engages in direct communication with the children and young people who are clients of the agency.

Contact between principal officers and children and young people placed with the agency is consistent with the NSW Out-of-Home Care Standards and the principles that underpin the *Children and Young Persons (Care and Protection) Act 1998* ("the Act").

Non-government designated agencies and applicants for accreditation should require principal officers to have direct contact with children and young people in care as part of their role statement (or other documentation that outlines principal officer roles and responsibilities).

ACWA showed support for contact requirements being built into role statements and a joint letter from the Children's Guardian and ACWA has been sent to all non-government designated agencies and applicants for accreditation. I have attached a copy of the letter for your information.

This issue may be managed in the longer term by requiring non-government agencies to submit proof that principal officer role statements address contact arrangements, as part of the accreditation process. I will consider any WWCC information in assessing the suitability of persons to be principal officers of designated agencies, following the introduction of proposed amendments to the carer assessment and authorisation provisions of the Regulation.

If you have any queries, please do not hesitate to contact me or Mr David Hunt, Policy Manager on 8219 3600.

Yours sincerely



Kerry Boland
Children's Guardian

22 October 2007



«Title» «First_Name» «Last_Name»
 «Position»
 «Company_Name»
 «Address_Line_1»
 «City» «State» «ZIP_Code»

Dear «Title» «Last_Name»

RE: ROLE STATEMENTS FOR PRINCIPAL OFFICERS OF DESIGNATED AGENCIES

The principal officer of a designated agency is the person who has overall supervision of the agency's arrangements for the provision of out-of-home care (clause 36(2) of the *Children and Young Persons (Care and Protection) Regulation 2000*).

The principal officer may be the agency's chief executive officer or another member of the agency's senior management. The agency's governance arrangements will determine who the principal officer is for the purposes of the care and protection legislation.

Principal officers of designated agencies play an important role in the lives of children and young people in out-of-home care.

Children and young people are the focus of a designated agency's work so it is important that the principal officer engages in direct contact with the children and young people who are clients of the agency. Direct contact means face-to-face contact.

Contact between principal officers and children and young people placed with the agency is consistent with the NSW Out-of-Home Care Standards and the principles that underpin the *Children and Young Persons (Care and Protection) Act 1998* ("the Act").

Whilst many principal officers will, as a matter of practice, have direct contact with children and young people in care, failure to recognise this responsibility in their role statements means they are not subject to the child-related employment Working With Children Check (WWCC) provisions of the *Commission for Children and Young People Act 1998* ("the CCYP Act"). These provisions consist of a background check and prohibiting persons with certain criminal records from being employed.

For the purposes of Part 7 of the *Commission for Children and Young People Act 1998*, employment as a principal officer is not considered child-related employment unless the position primarily involves direct contact with children and young people (ie: direct contact with children and young people is an essential requirement of the job). The carer assessment provisions of the *Children and Young Persons (Care and Protection) Regulation 2000* also do not apply to principal officers – they only apply to carers authorised by a designated agency.

Current arrangements that do not require WWCCs for principal officers are a matter of concern, particularly given principal officers have statutory responsibility for assessing and authorising all of a designated agency's authorised carers.

Making direct contact with children and young people a requirement of the principal officer's responsibilities means the principal officer will be subject to a WWCC.

The Children's Guardian and the Association for Childrens Welfare Agencies (ACWA) strongly encourage designated agencies and applicants for accreditation to build the requirement for direct contact with children and young people in care into their principal officer role statement (or other documentation that outlines principal officer roles and responsibilities).

In the future, the Children's Guardian may require agencies to submit proof that principal officer role statements address contact arrangements, as part of the accreditation process.

If you have any queries about this letter, please do not hesitate to contact Ms Joyce Semaan at the Office for Children – the Children's Guardian on 8219 3600, or Ms Christine Flynn at ACWA on REDACTE.

Yours sincerely



Kerryn Boland
Children's Guardian



Andrew McCallum
Chief Executive Officer
Association of Childrens
Welfare Agencies