

# Western Australian Auditor General's Report



## Working with Children Checks – Follow-up



Report 10: 2019-20  
23 October 2019

Office of the Auditor General  
Western Australia

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ISSN: 2200-1913 (print)  
ISSN: 2200-1921 (online)

***The Office of the Auditor General acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders both past and present.***

## WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

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### **Working with Children Checks – Follow-up**



**THE PRESIDENT  
LEGISLATIVE COUNCIL**

**THE SPEAKER  
LEGISLATIVE ASSEMBLY**

### **WORKING WITH CHILDREN CHECKS – FOLLOW-UP**

This report has been prepared for submission to Parliament under the provisions of section 25 of the *Auditor General Act 2006*.

This is an independent performance audit. Performance audits are an integral part of my Office's overall program of audit and assurance for Parliament. They seek to provide Parliament and the people of WA with assessments of the effectiveness and efficiency of public sector programs and activities, and identify opportunities for improved performance.

This audit followed-up our 2014 audit *Working with Children Checks*. It assessed if the management of working with children checks has improved and contributes to the safety of children.

I wish to acknowledge the staff at the Department of Communities and the WA Police Force for their cooperation with this audit.

A handwritten signature in black ink, appearing to read 'C Spencer'.

CAROLINE SPENCER  
AUDITOR GENERAL  
23 October 2019

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## Auditor General's overview

This report contains the findings from our follow-up of my Office's 2014 *Working with Children Checks* performance audit.

Keeping children safe is a priority. The core principle of the *Working with Children (Criminal Record Checking) Act 2004* is that the best interests of children are the paramount consideration. The Working with Children Check is one of a range of strategies to help make organisations child-safe and reduce the risk to children. The number of Working with Children Check cardholders in the State continues to grow.



The audit shows mixed results on the implementation of this Office's 2014 recommendations. Although the Department of Communities have made some improvements, it is disappointing that some previous findings have not been fully addressed. Overall, the assessment of Working with Children Check applications and monitoring of cardholders is more efficient and effective than it was in 2014. However, there has been little progress to mitigate the inherent risk of unsuitable people working with children while their application is assessed. Nor has Communities strengthened regulatory compliance activities to improve the overall effectiveness of the scheme.

I acknowledge the work by Communities over the last 5 years to improve the management of Working with Children Checks. I encourage Communities and other State and non-government entities to continue to address the issues raised in this report and by the *Royal Commission into Institutional Responses to Child Sexual Abuse*. I intend that this important area of child and community safety will continue to receive scrutiny by my Office in my future performance audit program.

# Executive summary

## Introduction

This performance audit follows-up our 2014 audit *Working with Children Checks*. The objective of the audit was to assess whether the Department of Communities' (Communities) management of the Working with Children (WWC) Check has improved and contributes to the safety of children. We reviewed the implementation of our 2014 audit recommendations and assessed the effectiveness and efficiency of the management of the WWC Check functions.

## Background

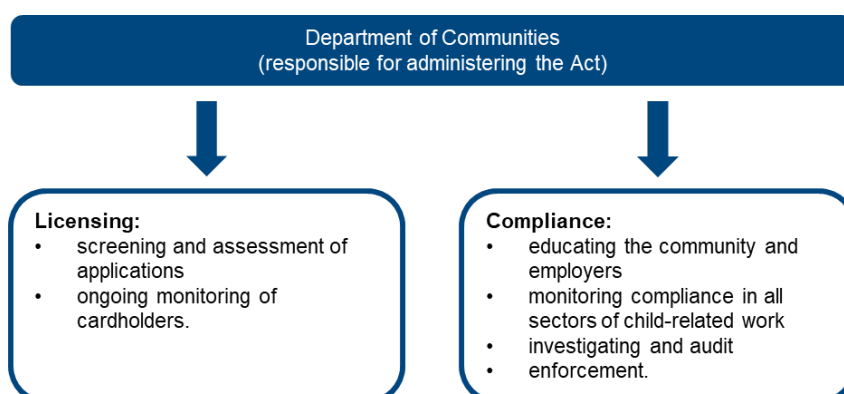
There are more than 370,000 WWC cardholders in Western Australia. People who engage in paid or unpaid work with children in Western Australia must apply for a WWC Check. This is required under the *Working with Children (Criminal Record Checking) Act 2004* and the *Working with Children (Criminal Record Checking) Regulations 2005* (collectively referred to in this report as the Act). However, the WWC Check does not apply to everyone who works with children. Children and students under 18, working on a voluntary or unpaid basis, or parents volunteering in certain activities do not require a WWC Check. This includes, for example, parents helping in schools and with sporting teams. Appendix 1 includes a full list of child-related work categories and exemptions under the WA WWC scheme.

Furthermore, in WA, unlike some other jurisdictions, the scheme does not extend to working with other types of vulnerable people including those who, due to illness, trauma, disability or other reasons are unable to take care of themselves.

The Act provides procedures for checking the criminal record of people who carry out, or propose to carry out, child-related work. It aims to prohibit people charged or convicted of certain offences from carrying out child-related work.

Under the Act it is an offence to engage in child-related work without applying for a WWC Check. It is also an offence to employ or procure employment in child-related work for someone without a WWC Check. Penalties can apply for these offences.

The Act gives Communities 2 key regulatory responsibilities, licensing and ensuring compliance (Figure 1). Both functions are important parts of creating a safe environment for children and making the Act effective. Communities' WWC Screening Unit (Screening Unit) manages both the licensing and compliance functions. The Western Australia Police Force (WA Police Force) also plays an important role in providing information about relevant offending to the Screening Unit.



Source: OAG

**Figure 1: Department of Communities' regulatory responsibilities to administer the Act**

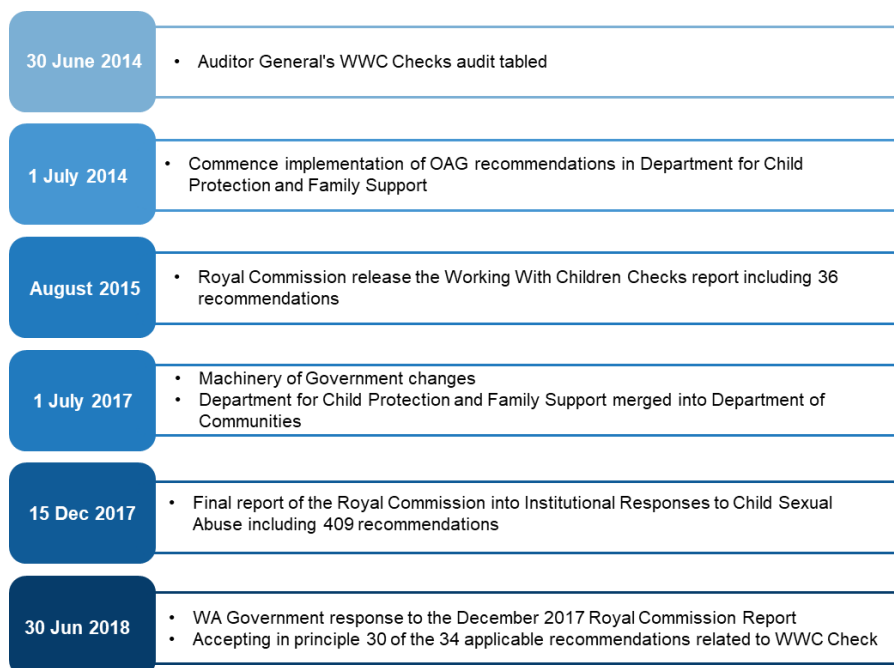
## What we found and recommended in 2014

In 2014, we concluded that there was a clear framework for screening WWC Check applications. Applications from individuals with criminal records were well assessed and existing cardholders were regularly monitored. However, we found that in complex cases there were delays in processing applications leaving children potentially exposed to risk. We also found that the then Department for Child Protection and Family Support (DCPFS), now Communities, did little proactive work to check that employers and volunteer groups were ensuring their employees and members were subject to the application process. Finally, we found DCPFS did not meet its own obligations as an employer, as 115 of the 2,577 foster carers did not have a valid WWC Card or application in process.

In 2014, we made 8 recommendations. The full list of recommendations and their implementation status are detailed in Appendix 2. These were to:

- better prioritise and oversee applications
- allow better data matching with the WA Police Force
- improve decision-making guidelines
- allow better compliance monitoring
- target audits for high risk employer groups
- ensure the Department's foster carers had valid WWC Cards.

A number of significant events have affected the management of the WWC Check since 2014 (Figure 2). These include the August 2015 *Working With Children Checks Report* by the Royal Commission into Institutional Responses to Child Sexual Abuse and the formation of the Department of Communities in 2017. The Royal Commission report included 36 recommendations aimed at improving the protection afforded to children. The Royal Commission report has also created an opportunity to strengthen the WWC regime in Australia and improve the protection afforded to children.



Source: OAG

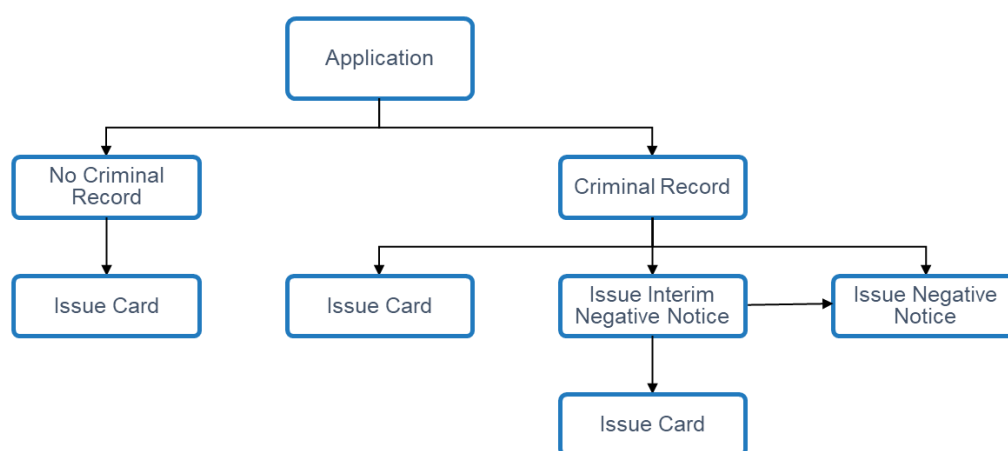
**Figure 2: Significant events affecting the management of the WWC Check since 2014**



The core principle of the Act is that the best interests of children are the paramount consideration. The Act allows applicants to engage in child-related work whilst the Screening Unit assess their application. Working with children upon submission, rather than on approval of an application, presents a risk to children if the applicant is subsequently found to be unsuitable to work with children and refused a WWC Card. There are 2 options available to Communities to reduce this risk:

- reduce the time it takes to complete assessments
- issue interim negative notices, which prevent applicants working with children until their assessment is finalised.

The Screening Unit is able to issue an interim negative notice where there is any potential risk of harm to a child. An application may go through a number of steps to result in either the issue of a WWC Card or a negative notice depending on the screening process (Figure 3).



Source: OAG

**Figure 3: Application process outcomes**

The WWC Check is one of a range of strategies to make organisations child-safe, and can reduce the risk to children. For this to happen, the application process must be timely, assessments must be reliable, and there needs to be ongoing monitoring of cardholders. The Act places responsibilities on employers as well as individuals, and there needs to be an effective risk-based education, compliance and enforcement regime to ensure employers of people in child-related work comply with the legislation.

## Audit conclusion

Communities has made some progress in implementing our 2014 recommendations. The assessment of applications and the monitoring of cardholders is more efficient and effective than it was in 2014. The average days to approve an application without a criminal record has reduced from 20 days in 2013-14 to 4 days in 2018-19. The process whereby Communities is informed of new offences by cardholders is also more effective than it was in 2014.

However, Communities needs to more effectively mitigate the inherent risk of unsuitable people working with children while their application for a WWC Check is assessed. Although the average time taken to issue negative notices, prohibiting individuals from working with children, has come down since 2013-14, some applications can still take a long time to complete. In 2018-19, Communities took an average of 211 days to issue negative notices to

105 applicants to whom it had not previously issued an interim negative notice. Fifty-three of these took over 200 days. These 53 people, who were found to be unsuitable to work with children, were allowed to work with children for a cumulative total of 14,192 days while their applications were assessed.

The criteria set by Communities for when to issue an interim negative notice resulted in only 20% of people who received a negative notice in 2018-19 being previously issued an interim negative notice. This means 80% of people who ultimately received a negative notice were able to work with children while their application was assessed. An interim negative notice temporarily prohibits an individual from child-related work while their application is assessed. They are a key control in mitigating the risk to children.

Communities is yet to implement a risk-based, proactive compliance and enforcement approach and needs to strengthen its regulatory compliance activities in order to improve the overall effectiveness of WWC Checks. It has little assurance about whether employers are ensuring that all of their staff who need a WWC Card have one. Communities has also not taken steps to ensure that self-employed people who work with children comply with the requirements of the scheme. This increases the risk that some people in child-related work may not comply with the legislation and undergo the WWC Check screening process.

Communities also still needs to improve its own compliance and internal reporting. It has not identified exactly how many of its own staff require a WWC Check and does not report compliance to senior management. There is a risk that not all staff who need a WWC Card, have one. There has been an improvement in the number of foster carers with a valid WWC Card since 2014, but we found a small number, who at the time of the audit had child placements, without a WWC Card or an application in process. Over half of these were because they had not renewed their expired WWC Card.

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## Recommendations

The Department of Communities should:

1. improve the analysis and reporting of WWC Check applications, renewals and offending data, and use available controls to mitigate the inherent risk of working while a WWC Check application is assessed.

### **Communities response:**

- Communities supports this recommendation.
- Communities has already commenced a review of the screening process and identified potential areas to reduce the timeframes even further.
- Communities will also review its risk-based approach and prioritisation of assessments; and identify and document information and intelligence sources that inform risks for screening and assessing WWC applications.

### **Implementation timeframe: by June 2020**

2. review criteria used to determine whether an interim negative notice is issued, to ensure they align with the core principle of the Act that the best interests of children are the paramount consideration.

### **Communities response:**

- Communities supports this recommendation.
- Communities monitors potential risk arising from people who work with children whilst their application is pending, and issues interim negative notices as a matter of urgency when an unacceptable risk to children is indicated.
- The best interests of children is and always will be paramount, and the application of this principle is integral to the administration of the Act. Communities welcomes the opportunity to strengthen the application of this principle even further.
- As a priority, Communities is reviewing the criteria for issuing interim negative notices, to ensure alignment with the principles of the Act and to minimise the risk to children.

### **Implementation timeframe: by December 2019**

3. establish a proactive, risk-based monitoring and enforcement approach that ensures all employers, employees, self-employed and volunteers in child-related work comply with the requirements of the Act. This could include greater use of existing powers to require periodic confirmation of compliance with the Act from organisations who employ people in child-related work.

### **Communities response:**

- Communities supports this recommendation.
- Communities acknowledges that the WWC compliance and enforcement regime needs to be more proactive and risk-based.

- Work has already commenced to develop a targeted and risk-based monitoring, compliance and enforcement approach, that uses relevant data sources and powers to ensure compliance with the requirements of the Act.
- This work will identify and use intelligence sources to determine the areas of child-related work that present the greatest risk and target compliance monitoring activities towards these.
- Communities will also increase the effective use of its powers under the Act, to expand its compliance monitoring activities.

**Implementation timeframe: by June 2020**

4. identify all Department of Communities positions (including employees, foster carers and contractors) that require a WWC Check, ensure individuals have valid WWC Cards and regularly report the level of compliance to executive management.

**Communities response:**

- Communities supports this recommendation.
- Since the conclusion of the audit, Communities has taken prompt action to ensure all Communities related positions that require a WWC Check, have a valid WWC Card.
- Where Communities employees require a WWC Card, the currency of the WWC Card is monitored and action is taken to ensure employees do not continue to work in child-related work without a valid WWC Card.
- Current reporting on the levels of compliance with the WWC requirements will be enhanced to ensure the escalation of matters of concern to senior management.

**Implementation timeframe: by December 2019**

5. document current WWC Check business practices and maintain written policies and procedures.

**Communities response:**

- Communities supports this recommendation.
- Communities has and will continue to improve and adapt WWC Check business practices, to minimise risk to children and enhance services that protect children.
- Communities will review its current written policies and procedures to ensure these are up-to-date and implement a schedule of review to ensure their ongoing currency.

**Implementation timeframe: by June 2020**

The Department of Communities and the Western Australia Police Force should:

6. review information sharing arrangements and look for opportunities to improve the overall effectiveness of the WWC scheme.

### **Communities response:**

- Communities accepts the recommendation to review information sharing arrangements with the WA Police Force. A review of that kind will necessarily consider legislative, contractual and privacy implications.
- Communities remains in regular contact with the WA Police Force and actively works to improve the sharing of information to increase protections for children.

### **WA Police Force response:**

- The WA Police Force accepts this recommendation and its implementation timeframe.
- The WA Police Force looks forward to developing greater work relations with the Department of Communities to improve information sharing arrangements and the overall effectiveness of the WWC scheme.

### **Implementation timeframe: by June 2020**

## **Response from the Department of Communities**

The Department of Communities (Communities) welcomes the Summary of Findings and supports the recommendations and implementation timeframes.

Communities is pleased that the report recognises the improvement to the timeframes for processing Working with Children Check (WWC) applications, reassessment and negative notices since 2014; and that the risk-based approach to processing applications has been effective in reducing the risk to children. However, it is recognised that there is still more work to be done and Communities has already commenced a review of the process and identified potential areas to reduce the timeframes even further.

The best interests of children is paramount, and the application of this principle is integral to the administration of the WWC scheme. As noted in the Summary of Findings, there is an opportunity to strengthen the application of this principle even further. As a priority, Communities will also review its criteria for issuing interim negative notices, to minimise the inherent risk to children.

Communities acknowledges that the WWC compliance and enforcement regime needs to be more proactive and risk-based. Work has already commenced to develop a targeted and risk-based monitoring, compliance and enforcement approach, that uses relevant data sources and powers to ensure compliance with the requirements of the *Working with Children (Criminal Record Checking) Act 2004*.

Communities provides a range of child safety services in addition to the WWC Checks and is committed to its ongoing contribution to improve the protection of children. Since the conclusion of the audit, Communities has taken prompt action to ensure all Communities related positions that require a WWC Check, have a valid WWC Card. Current reporting on the levels of compliance with the WWC requirements will be enhanced to ensure the escalation of matters of concern to senior management.

## Audit focus and scope

This performance audit followed-up our 2014 audit *Working with Children Checks*. The objective of the audit was to assess whether the management of the WWC Check has improved since the 2014 audit and contributes to the safety of children. We reviewed the implementation of the 2014 audit recommendations and assessed the effectiveness and efficiency of the WWC Check.

This audit focussed on the questions:

- Have the recommendations of the 2014 audit *Working with Children Checks* been implemented?
- Are arrangements for the notification by relevant authorities of new offences by WWC cardholders effective?

In conducting this audit, we:

- reviewed policies, procedures and key documents
- interviewed staff in Communities, the WA Police Force, the Department of Education, the Department of Health, and Health Support Services
- analysed WWC Check data from Communities for the period January 2014 (prior to the previous audit) to June 2019
- performed procedures to ensure the accuracy of Communities' data prior to our analysis.

The report identifies instances where we have relied on Communities' calculations and not performed our own analysis.

We planned to conduct a high-level review of WWC Check processes and compliance at the Department of Education and the Department of Health. However, during the initial stages of our high-level review we concluded this area warrants further audit attention and commenced further audit work to determine if a number of State Government entities comply with WWC Check requirements. More specifically, we are assessing whether the entities understand which positions require a WWC Card, ensure that relevant employees hold a WWC Card, and regularly monitor and report compliance to their senior management. The findings from our audit work will be separately reported to Parliament.

This was an independent performance audit, conducted under section 18 of the *Auditor General Act 2006*, in accordance with the Australian Standard on Assurance Engagements ASAE 3500 *Performance Engagements*. We complied with the independence and other ethical requirements related to assurance engagements. Performance audits focus primarily on the effective management and operations of entity programs and activities. The approximate cost of undertaking the audit and reporting is \$296,130.

## Audit findings

### WWC Checks are an important part of a system to keep children safe

The number of people with a WWC Card in WA continues to grow. At June 2019, there were 377,199 cardholders. This represents approximately 1 in 5 adults in WA and is a 23% increase since 2014.

There has also been significant growth, approximately 19%, in the number of WWC Check applications and renewals processed annually between 2013-14 and 2018-19.

Of the 130,297 applications and renewals processed in 2018-19, 83% (108,169) of the applicants had no criminal record and 128 resulted in a negative notice prohibiting them from working with children.

The WWC Check is one in a range of strategies to make organisations child-safe. It will make a more effective contribution to keeping children safe if used in the context of broader child-safe strategies. Such strategies include appropriate leadership, governance and culture; quality recruitment, selection and screening; training; effective child protection policies and procedures; and child friendly practices.

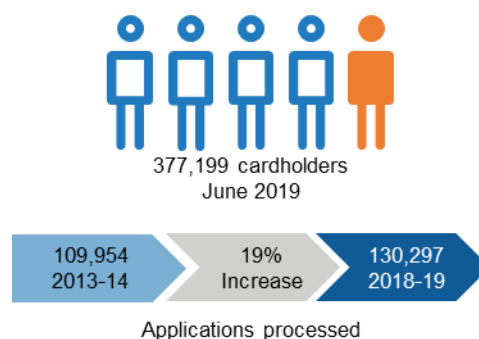
The Royal Commission into Institutional Responses to Child Sexual Abuse *Working With Children Checks Report* was released in August 2015. The Royal Commission found that:

- each State and Territory had their own independent scheme but these were inconsistent, complex and had inadequate information sharing and monitoring of cardholders
- once a person has a WWC Card, ongoing monitoring does not include national criminal history checking
- screening agencies do not report WWC Check decisions and card status from other card jurisdictions
- organisations working across card jurisdictions found it difficult to comply with the different schemes.

The Royal Commission's report highlights opportunities for better alignment across the States and Territories, and easier exchange of information that can improve the protection afforded to children. It made 36 recommendations to strengthen WWC Checks in Australia, 34 were applicable to state governments. In June 2018, the Western Australian Government accepted, or accepted in principle, 30 of the 34 recommendations with the remaining 4 requiring further consideration. The first tranche of proposed legislative changes are pending State Government approval.

Across Australia, people working with children are subject to some level of screening and assessment to determine their suitability. In WA, the Act requires employees, self-employed people and volunteers working in certain categories of child-related work to have a WWC Card. A Card is valid for 3 years after which the individual can make a new application.

The WWC Check includes a national criminal record check and assessment of other relevant information to determine whether an individual should be permitted to work with children.



Source: OAG

**Figure 4: Number of cardholders and applications processed**



In most cases, the Act allows people to commence or continue child-related work while their application is assessed. If a person's application is successful, a WWC Card is issued and they may continue to engage in paid or unpaid child-related work.

If a person's application is unsuccessful, the Screening Unit will issue a negative notice prohibiting them from engaging in child-related work. Prior to the Screening Unit making a negative notice decision, the Act requires pending applicants and cardholders to be notified and given 28 days to provide a submission.

The Screening Unit may also issue an interim negative notice, temporarily prohibiting a person from engaging in child-related work while their application is assessed (or reassessed). The Screening Unit is required by the Act to issue interim negative notices to applicants with an adult conviction of any Class 1 offence (generally offences relating to the sexual abuse of children). Interim negative notices may also be issued if the person's criminal record indicates they are likely to be issued a negative notice, and where children may be exposed to immediate risk of harm while a final assessment is made.

Individuals may appeal a negative notice decision in the State Administrative Tribunal but not an interim negative notice decision. Once the Screening Unit notifies the employer or voluntary organisation of these decisions, they must ensure the person is not engaged in any child-related work in their organisation.

Cardholders are also subject to ongoing monitoring. The Screening Unit reassesses eligibility when it receives new information relevant to the safety of children. For example, notification of a new charge or conviction for a relevant offence.

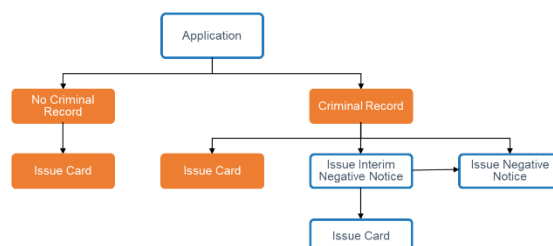
## Assessing WWC Check applications is more efficient, but cases resulting in negative notices still take a long time

Overall, we found that the process to assess WWC Check applications has improved. Significant improvements have been made in the time taken to approve applications where a person does or does not have a criminal record. However, applications that result in a negative notice, can still take a long time to complete and we consider these pose the higher risk to children.

How long an application should take to complete is not simple to answer. The Royal Commission recommended that state and territory governments should process WWC Check applications in 5 working days, and no longer than 21 days for more complex cases. The State Government's response stated that this recommendation needed further consideration to ensure the comprehensive behaviour assessment undertaken in WA is not compromised. Communities needs to monitor the risk resulting from the work on application provision. Where necessary, it should consider additional strategies, such as issuing interim negative notices, to mitigate the risk associated with the time it takes to complete some assessments.

### Automated application processing has decreased processing time for those issued with a WWC Card

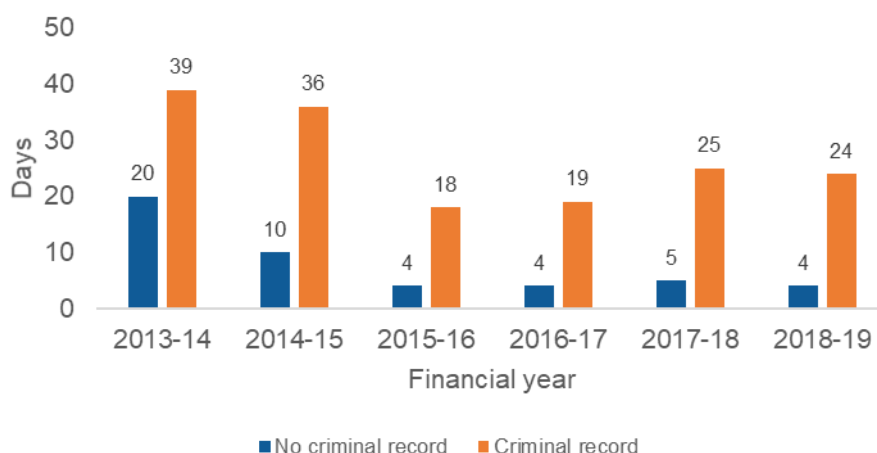
Since 2014, the Screening Unit has automated how it validates applications, significantly decreasing the time taken to issue WWC Cards. Better integration between the WA Police Force and the Screening Unit, and a more risk-based approach means applications are processed 52% quicker than in 2014.





Because people can work with children once they have applied for a WWC Check, the time taken to finalise an application is a key control in the WWC Check effectively reducing the risk to children. The biggest improvement in processing time since 2014 relates to applications from individuals without a criminal record, and we consider these people pose the least risk while working with children as their application is assessed.

All applications are screened against the Australian Criminal Intelligence Commission database. The average days to approve an application from people without a criminal record has reduced from 20 days in 2013-14 to 4 days in 2018-19 (Figure 5).



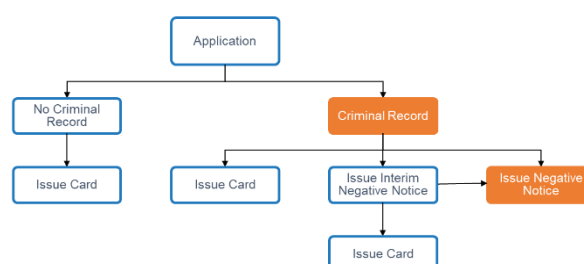
Source: OAG and Communities

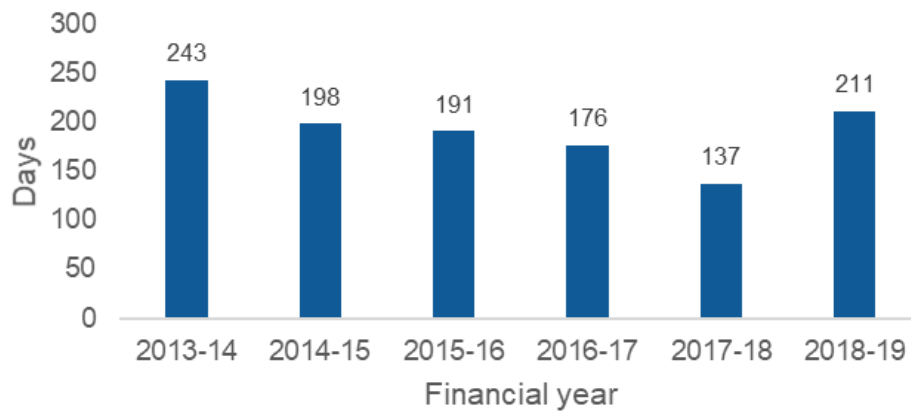
**Figure 5: Average days to approve applications**

The average days to approve an application from people with a criminal record has also decreased, from 39 days in 2013-14 to 24 days in 2018-19. Applications from people with a criminal record require more work to review the person's criminal record, previous employment, references, and work history to ensure the person does not pose a risk to children.

### Significant risk to children remains as issuing negative notices still takes a long time

Communities has reduced the average time it takes to issue a negative notice to 211 days in 2018-19. There was an increase in 2018-19 following successive reductions (Figure 6). Taking this long to issue negative notices poses a significant risk to children, as individuals ultimately deemed unsuitable can continue to work with children until issued with a negative notice.

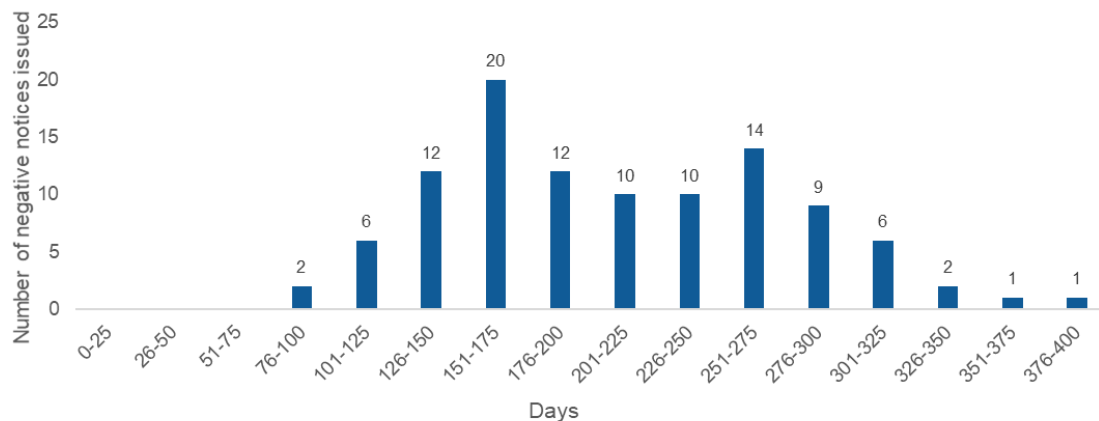




Source: OAG and Communities

**Figure 6: Average days to issue a negative notice**

In 2018-19, the Screening Unit issued a negative notice to 105 applicants who had not received an interim negative notice. It took between 81 and 384 days to do this. For 53 applicants, it took more than 200 days, or over 6 months, to issue a negative notice prohibiting the individual from engaging in child-related work (Figure 7). These 53 people were able to work with children for a cumulative total of 14,192 days. There is an inherent risk in permitting people to work with children once they have applied for a Card. We recognise that it takes time to assess applications and the need to afford applicants procedural fairness and natural justice. However, faster assessments, and the issue of interim negative notices, are the 2 controls available to Communities to improve the effectiveness of WWC Checks.

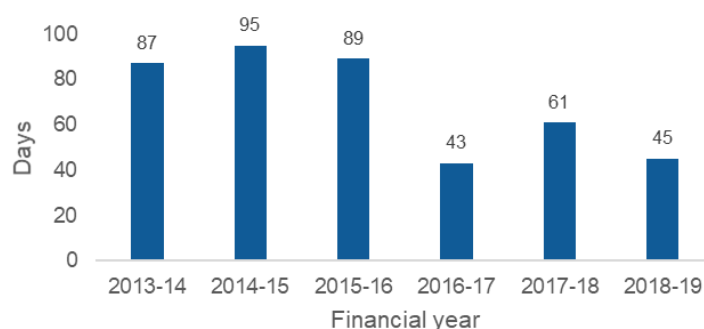
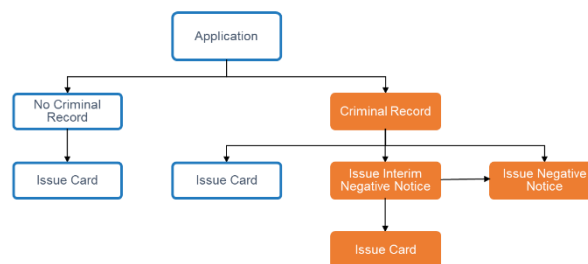


Source: OAG using Communities data

**Figure 7: Days to issue negative notices in 2018-19**

## Reserving interim negative notices for applications with the highest and imminent risk can pose a risk to children

The average time taken to issue an interim negative notice has significantly decreased from 87 days in 2013-14, to 45 days in 2018-19 (Figure 8). The criteria set by Communities as to when to issue an interim negative notice resulted in only 20% of people who received a negative notice in 2018-19 being previously issued an interim negative notice. Eighty percent of people who received a negative notice worked or were able to work with children while their application was assessed. An interim negative notice temporarily prohibits an individual from child-related work while their assessment is finalised. It is a key control in mitigating the risk to children that results from permitting individuals to engage in child-related work after applying for, but before receiving, a WWC Card.



Source: OAG using Communities data

**Figure 8: Average days to issue interim negative notices from 2013-14 to 2018-19**

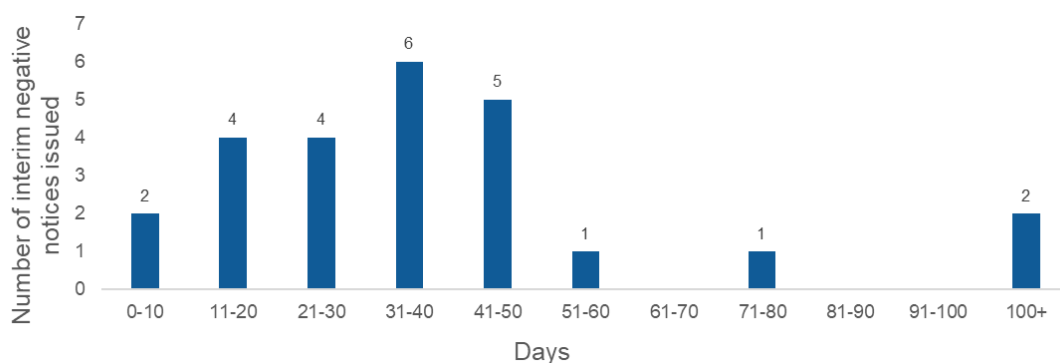
In 2018-19, 128 applications resulted in a negative notice, but the Screening Unit issued only 25 interim negative notices to applicants. Twenty-one of the 25 interim negative notices were issued in 50 days or less (Figure 9). This helps to reduce the risk to children from people who were subsequently prohibited from child-related work being able to work while their application is assessed.

The Screening Unit's criteria to help determine if an interim negative notice should be issued are:

- the serious nature of the person's behaviour and relevance to child-related work
- that children are likely to be exposed to an immediate risk of harm should the applicant continue or commence child-related work whilst a final decision is made.

These criteria reflect that the assessment of an applicant's criminal record is not always straightforward, and an intention to avoid issuing interim negative notices unless the situation is clear. This can imply that the Department places excessive focus on procedural fairness to reduce the risk of incorrectly issuing an interim negative notice to adults seeking to work with children, rather than looking to reduce the risk to children that stems from allowing unsuitable people to work while their application is assessed.

We note that if the risk focus was reversed, as implied in the objective of the Act, the potential impairment on applicants' ability to work with children would not be widespread. For example, even if all applicants who received a negative notice had also received an interim negative notice this would be 128 people, or 0.1% of applicants in 2018-19. The fact that only 2 of the 25 people issued with an interim negative notice subsequently received a WWC Card further indicates that Communities is conservative in its use of interim negative notices as a mechanism to reduce risk to children.



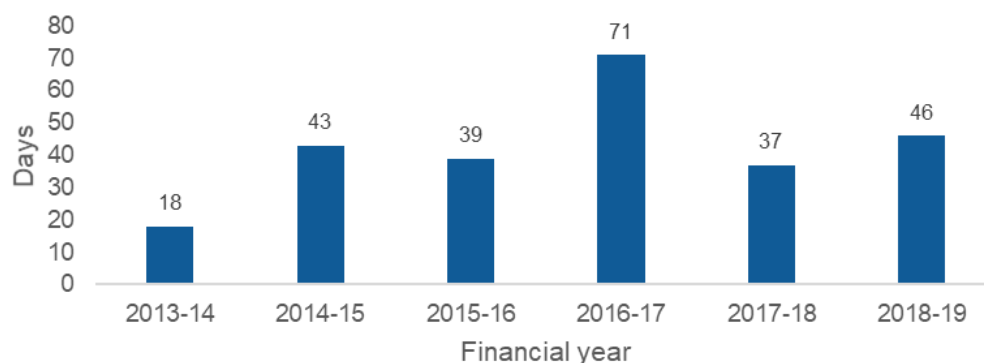
Source: OAG using Communities data

**Figure 9: Days to issue interim negative notices in 2018-19**

Communities needs to consider if use of more interim negative notices would be a better control to reduce the risk to children arising from allowing people to work while their application is assessed. In particular, we consider Communities should issue interim negative notices more readily in the relatively small number of complex cases that take a long time to complete. This would be more consistent with a precautionary principle approach that places greater weighting on the safety of children over the procedural fairness concerns of a minimal number of applicants.

### Applications that result in a negative notice spend significant time waiting to be allocated for assessment, which poses a risk to children

In 2014, we recommended that Communities should have better systems to allocate and prioritise assessments based on risk. Since 2014, the Screening Unit has introduced a triage process that ranks applications according to risk and prioritises those that pose the greatest risk to children. Communities advised that, although the total number of applications unallocated for assessment had decreased in 2018-19, applications that result in a negative notice remained unallocated for an average of 46 days, an increase since 2013-14 (Figure 10).



Source: OAG and Communities

**Figure 10: Average days that applications resulting in a negative notice were unallocated**

Applications that cannot be immediately allocated to a screening officer are placed on a waitlist and considered “unallocated”. A number of these applications result in a negative notice, which presents a significant risk to children, as these applicants are able to engage in child-related work while their application is effectively “on hold”.

## **The level of automatic monitoring has improved however delays still exist for completing reassessments**

The Screening Unit continually monitors cardholders. They run the list of cardholders against the WA Police Force systems, which reflects updates and/or changes in criminal history. Where a relevant change occurs the Screening Unit reassess whether the person is suitable to remain engaged in child-related work. A small proportion of cardholders are not automatically monitored. Since our last audit, Communities has taken steps to reduce the number of people not automatically monitored and controls are in place to mitigate the risk posed. During 2018, the Screening Unit completed 69 reassessments that resulted in the issue of an interim negative notice or negative notice. Reassessments are finalised more quickly than in 2013, but can still take a long time to complete.

## **The level of continual monitoring of cardholders has improved**

In 2014, we recommended that DCPFS work with the WA Police Force to improve the matching of applicants between the WA Police offence data system and the Screening Unit’s information system, and reduce the number of cardholders who cannot be monitored through this process. Communities advised as at 30 April 2019, 8% of cardholders were not subject to continual monitoring, compared with 14% in 2014. The Screening Unit and the WA Police Force have controls to manage this risk. The WA Police Force has processes and procedures in place to notify the Screening Unit if a person charged with a relevant offence is considered to be in child-related work. This includes individuals who are not subject to continual monitoring by the Screening Unit. The WA Police Force does not currently have access to the list of WWC cardholders. It believes that existing controls would be strengthened if it had access to the list of WWC cardholders.

Continual monitoring is one of the benefits of the WWC Check compared to other checks, such as the WA Police National Police Certificate. For example, a National Police Certificate is only a point in time list of a person’s disclosable court outcomes and pending charges from all Australian police jurisdictions.

## **New offence notifications are actioned more quickly than in 2012-13, but some internal delays still exist**

Communities is reassessing cardholders who commit offences more quickly than in 2012-13, however, some internal delays still exist. In 2012-13 only 35% of reassessments were completed in 10 days, this increased to 69% in 2017-18.<sup>1</sup> Further, 25% of reassessments took more than 4 months in 2012-13, this decreased to 3% in 2017-18.

Once the WA Police Force notifies Communities of a relevant update to a cardholder’s criminal record, the Screening Unit must reassess the cardholder’s suitability to continue working with children. If the decision is made that a cardholder is no longer considered suitable to engage in child-related work, Communities will issue a negative notice prohibiting them from engaging in child-related work.

We analysed the 69 reassessments resulting in an interim negative notice or negative notice in 2018 due to offence notifications. We found that the 50 issued with an interim negative notice took an average of 3 days to issue. However, the remaining 19 issued with a negative

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<sup>1</sup> Data available at the time of audit

notice, but no interim negative notice, took an average of 87 days to complete. The Act allows the applicant 28 days to provide a submission prior to Communities issuing a negative notice, but there is significant opportunity for Communities to reduce the timeframe from 87 days thereby reducing the risk cardholders ultimately issued with a negative notice may pose to children.

## **Communities has not implemented risk-based monitoring and enforcement, and has little assurance about employer compliance**

Communities can provide little assurance that employers and volunteer organisations with people in child-related work comply with the Act, which undermines the effectiveness of the WWC Check scheme. The Screening Unit has done little to address the recommendation in our 2014 report, to take a risk-based approach to proactively prioritise and target enforcement activity. Communities does not use available data to identify areas of risk or proactively plan regulatory activity, to ensure employers and volunteer organisations comply with the Act.

Communities takes a cooperative compliance approach including delivering education sessions to employers and volunteer organisations. Communities also carries out investigations and audits of individuals or organisations where external sources provide information that warrant the commencement of an investigation or audit.

Communities advised they completed 24 audits and 124 investigations in 2017-18.<sup>2</sup> This is an increase from the 1 audit and 28 investigations completed in 2013-14. However, these are still only undertaken when Communities receives relevant information from external sources.

Other than the audit and investigations carried out, Communities does not use targeted regulatory activities to assure itself that entities and individuals comply with the Act. For example, the Act permits Communities to require employers to certify annually their compliance with the Act. However, Communities does not currently require this even though it could use this to inform its risk assessment and as a basis for a rolling sample of verifications which could identify non-compliance and enable enforcement activity. Targeted auditing would allow effective use of monitoring and enforcement resources.

Communities has a range of data that could be used to target regulatory activities based on indications of risk. For example, we found that analysing negative notices issued by work-related category identifies that the “club, association or movement” child-related work category accounts for 8% of all cardholders but, in 2018, accounted for 15% of negative notices issued. This could be a flag suggesting further regulatory investigation is warranted in this category. As another example, Communities could identify employers with the highest number of people engaged in child-related work, or those occupations which provide the most access to children as areas to focus compliance activities.

Furthermore, Communities has never undertaken a proactive audit of self-employed individuals. We randomly selected 30 individuals or organisations advertising child-related services in WA on the internet. Of these, 40% did not have a WWC Card or application in progress with Communities. A number of these were self-employed individuals. Self-employed individuals, such as those offering private music lessons or other tuition, pose a risk of not being subject to the WWC Check screening as there is no oversight by an employer requiring a WWC Card. Both the individuals offering the services and the parents engaging them may be unaware they are required to have a WWC Check.

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<sup>2</sup> Data available at the time of audit

In addition to community and parental awareness, monitoring and enforcing compliance is essential to making the WWC Check scheme credible and effective in helping to keep children safe.

## **Communities does not ensure its own compliance with the WWC Check legislation**

Communities does not know the total number of its employees who require a WWC Card. Since the Machinery of Government changes in July 2017 it has not been able to provide a breakdown of staff from the previous Department of Housing or Disability Services Commission who require a Card.

Furthermore, it does not effectively monitor or report to senior management on its own compliance with the Act. Communities does not know if it complies with the Act it is responsible for administering.

In both our 2014 audit and this audit we found a small number of foster carers, with child placements, did not hold a valid WWC Card or have an application in progress.

In 2014, we found that 4% of registered foster carers did not have a WWC Card, Communities advised that this has reduced to 2.5% (160 foster carers) in June 2019.

In June 2019, 3,834 of the total 6,266 foster carers had a current child placement. Of those, Communities advised 46, or 1%, did not have a valid WWC Card or an application in progress. Twenty-five of the 46 had failed to renew their WWC Card and the remaining 21 had not lodged an application for a WWC Check. This presents a risk to some of the State's most vulnerable children.

The child-related work category that foster carers falls into accounts for only 2% of cardholders yet represented 10% of the negative notices issued in 2018. Failing to ensure foster carers are subject to the screening process jeopardises the effectiveness of a critical area of coverage of the WWC Check scheme.

## **Internal information and reporting on the effectiveness of the WWC Check is inadequate**

We found difficulties in obtaining accurate and consistent information to analyse trends and demonstrate performance. Communities lacks standard reporting of the metrics we have analysed relating to the assessment of applications, and of their own performance in complying with the Act. Our review of the data provided to us identified inconsistencies in what was included in data sets and how things were measured. Communities does not have a suite of indicators that are regularly reported to monitor its performance in managing the WWC scheme and to support analysis of risks. Communities has not defined the analysis it needs to conduct and has not been through a process of agreeing key data and indicator definitions to ensure the data is suitable to allow robust analysis.

Regular reporting would better inform Communities senior management about whether the WWC scheme is performing as intended, and provide assurance on its own compliance. It would also increase the assurance to senior management about whether the residual risks arising from aspects of the scheme are being minimised and if the monitoring of employers and volunteer organisations, and enforcement activity, is effectively targeted based on risk.



## Appendix 1: Categories of child-related work and exemptions

Category	Examples of types of jobs (but are not limited to)	Exemption specific to the category
1	Child care service; as defined by the <i>Child Care Services Act 2007</i> or an education and care service defined in the <i>Education and Care Services National Law (Western Australia)</i>	<p>Managerial officers</p> <p>Family day care educators</p> <p>Educators</p> <p>Students on placement over 18 years of age</p> <p>Gardeners, cleaners and cooks whose employment is at the child care centre during centre hours and whose usual duties involve contact with children</p> <p>Self-employed dance or art instructors who attend to provide classes to the children</p> <p>Child volunteers</p> <p>Unpaid students on placement under 18</p> <p>Short-term visitors to WA</p> <p>Students on placement over 18 years of age</p> <p>Work carried out on a voluntary basis by a parent of a child to whom the service is being provided; or who is enrolled for, or otherwise ordinarily provided with, the service</p> <p>Police officers performing functions as a member of the WA Police Force</p>
2	Community kindergarten; registered under the <i>School Education Act 1999</i>	<p>Teachers</p> <p>Education assistants</p> <p>Students on placement over 18 years of age</p> <p>Non-teaching staff, including gardeners, cleaners and cooks whose employment is at the community kindergarten during kindergarten hours and whose usual duties involve contact with children</p> <p>Self-employed dance or art instructors who attend to provide classes to the children</p> <p>Child volunteers</p> <p>Unpaid students on placement under 18</p> <p>Short-term visitors to WA</p> <p>Work carried out on a voluntary basis by a parent of a child who is enrolled at the kindergarten</p>
3	Educational institution for children	<p>Teachers</p> <p>Non-teaching reception area staff including school registrars whose usual duties involve contact with children</p> <p>Non-teaching staff such as gardeners and maintenance people whose employment is during school hours and whose usual duties involve contact with children</p> <p>Child volunteers</p> <p>Unpaid students on placement under 18</p> <p>Short-term visitors to WA</p> <p>Work carried out on a voluntary basis by a parent of a child who is enrolled at the educational institution</p> <p>Police officers performing functions as a member of the WA Police Force</p>



		<p>People providing health services to school children at the school</p> <p>Instructors or leaders of after school activity programs taking place at the school</p> <p>Canteen or tuckshop staff who have contact with children</p>	One-off national events and national tours
4	A coaching or private tuition service of any kind, but not including an informal arrangement entered into for private or domestic purposes	<p>Driving instructors who teach children to drive</p> <p>Sport coaches for children</p> <p>Providers of yoga, dance, art, language or music classes for children whether individually or in groups</p>	<p>Child volunteers</p> <p>Unpaid students on placement under 18</p> <p>Short-term visitors to WA</p> <p>Work carried out on a voluntary basis by a parent of a child to whom the service is being provided in connection with an activity in which the child is participating, or ordinarily participates</p> <p>When the coaching or private tuition service is also carried out in connection with a club, association or movement (including of a cultural, recreational or sporting nature and whether incorporated or not) with a significant membership or involvement of children (category 12), and the work is carried out on a voluntary basis by a parent of a child who is involved, or is ordinarily involved in some, or all, of the activities of the club, association or movement</p> <p>A coaching or private tuition service provided to a class of 2 or more persons that is not provided primarily for children</p> <p>Police officers performing functions as a member of the WA Police Force</p> <p>One-off national events and national tours</p>
5	An arrangement for the accommodation/care of children, whether in a residential facility or private residence, but not including an informal arrangement made by a parent of the	<p>School boarding house workers who have contact with a child as part of their usual duties</p> <p>Country school hostel workers who have contact with a child as part of their usual duties</p> <p>Youth refuge workers</p>	<p>Child volunteers</p> <p>Unpaid students on placement under 18</p> <p>Short-term visitors to WA</p>

	child concerned or accommodation/care provided by a relative of the child	People who provide 'home stay' or billeting accommodation for children Au pairs, demi pairs and nannies	Work carried out on a voluntary basis by a parent of a child in connection with an activity in which the child is participating, or ordinarily participates Arrangements for accommodation or care of children in a residential facility connected to, or used predominantly by students of, a university or other institution of tertiary accommodation Police officers performing functions as a member of the WA Police Force One-off national events and national tours
6	A placement arrangement or secure care arrangement under the <i>Children and Community Services Act 2004</i>	Foster carers Relative carers People employed by the Department of Communities accommodation and secure care services Students on placement who are over 18 years of age, gardeners, cleaners and cooks who are employed at the residential care centre, who do their work while children are likely to be present and have contact with a child as part of their usual duties	Child volunteers Unpaid students on placement under 18 Short-term visitors to WA
7	The performance by an officer, as defined in the <i>Children and Community Services Act 2004</i> of a function given to the officer under that Act	Department of Communities officers and other staff members providing protection and support services to children and families	Child volunteers Unpaid students on placement under 18 Short-term visitors to WA
8	A detention centre, as defined in the <i>Young Offenders Act 1994</i> section 3	Group workers at the youth detention centre Teachers, counsellors, medical officers and others who provide services to young people at the youth detention centre (whether employed by the detention centre or not) Students on placement who are over 18 years of age, gardeners, cleaners and cooks who are employed at the youth detention centre, who do their work while children are likely to be present	Child volunteers Unpaid students on placement under 18 Short-term visitors to WA Police officers performing functions as a member of the WA Police Force

		and have contact with a child as part of their usual duties Legal aid officers who see the youth at the detention centre	
9	Community child health service	Practitioners and others working at Perth Children's Hospital where their usual duties include contact with children Child health nurse School health nurse	Child volunteers Unpaid students on placement under 18 Short-term visitors to WA Work carried out on a voluntary basis by a parent of a child to whom the service is being provided in connection with an activity in which the child is participating, or ordinarily participates
10	Counselling or other support service	Counsellors, psychotherapists and similar professionals who treat children's emotional and psychological problems Social workers or psychologists providing family counselling or support services that involve children Speech pathologists and occupational therapists working with children who as part of their services provide counselling to assist children to manage their conditions People providing counselling services for children with cancer and other serious illnesses People providing telephone or website based counselling to children e.g. Kids Helpline	Child volunteers Unpaid students on placement under 18 Short-term visitors to WA Work carried out on a voluntary basis by a parent of a child to whom the service is being provided in connection with an activity in which the child is participating, or ordinarily participates Police officers performing functions as a member of the WA Police Force One-off national events and national tours
11	A religious organisation	Religious leaders including Ministers of religion, Rabbis, Priests, Acolytes and others where the usual duties of these leaders involves contact with children Volunteers who work with children at "Sunday School", church youth activities, or children's religious storytelling Chaplaincy services	Child volunteers Unpaid students on placement under 18 Short-term visitors to WA Work carried out on a voluntary basis by a parent of a child to whom the service is being provided in connection with an activity in which the child is participating, or ordinarily participates One-off national events and national tours

12	A club/association/movement (including of a cultural/recreational/sporting nature and whether incorporated or not) with a significant membership/involvement of children, but not including an informal arrangement entered into for private/domestic purposes	Coaches and umpires at sporting clubs who have contact with children as part of their usual duties Guides and scout leaders	Child volunteers Unpaid students on placement under 18 Short-term visitors to WA Work carried out on a voluntary basis by a parent of a child who is involved, or is ordinarily involved in some, or all, of the activities of the club, association or movement Police officers performing functions as a member of the WA Police Force One-off national events and national tours
13	Ward of a public or private hospital in which children are ordinarily patients	Medical and paramedical staff working at a children's hospital or on a ward where children are ordinarily patients Hospital orderlies who are employed on wards of hospitals where children are ordinarily patients and who have contact with children as part of their usual duties GP or paediatricians visiting the ward of a children's hospital or a ward where children are ordinarily patients	Child volunteers Unpaid students on placement under 18 Short-term visitors to WA Work carried out on a voluntary basis by a parent of a child in connection with an activity in which the child is participating, or ordinarily participate
14	A baby sitting or child minding service, but not including an informal arrangement entered into for private or domestic purposes	Formal baby-sitter People who work as live-in or daytime nanny, Au pairs and demi pairs Staff working with the children at a crèche that is not licensed at a recreational centre, health club or shopping centre	Child volunteers Unpaid students on placement under 18 Short-term visitors to WA Work carried out on a voluntary basis by a parent of a child, to whom the service is being provided in connection with an activity in which the child is participating, or ordinarily participates One-off national events and national tours
15	Overnight camp, regardless of the type of accommodation or how many children are involved	Care takers of campsites who have contact with children as part of their usual duties at the camp Self-employed, employees or volunteers who work (such as supervising children or activities) on an overnight camp organised by a school or club	Child volunteers Unpaid students on placement under 18 Short-term visitors to WA Police officers performing functions as a member of the WA Police Force

			One-off national events and national tours
16	A transport service specifically for children	<p>Transperth bus drivers whose usual duties include the provision of bus services specifically for children</p> <p>Limousine drivers for children's parties, school balls or other services specifically for children</p> <p>Private coach hire services that only service schools e.g. for school excursions, camps or carnivals</p>	<p>Child volunteers</p> <p>Unpaid students on placement under 18</p> <p>Short-term visitors to WA</p> <p>Work carried out on a voluntary basis by a parent of a child who is a passenger on the transport service, or is ordinarily a passenger on the transport service</p> <p>One-off national events and national tours</p>
17	School crossing service, being a service provided to assist children to cross roads on their way to and from school	<p>A person who volunteers as a school crossing attendant</p> <p>"Lollipop" school cross walk attendants (traffic wardens)</p>	<p>Child volunteers</p> <p>Unpaid students on placement under 18</p> <p>Short-term visitors to WA</p> <p>Work carried out on a voluntary basis by a parent of a child who is enrolled at the school</p> <p>Police officers performing functions as a member of the WA Police Force</p> <p>One-off national events and national tours</p>
18	A children's entertainment or party service	<p>People providing public entertainment services specifically for children, such as magicians and clowns, if they have contact with children</p> <p>Animal farm shows that visit schools or provide private children's parties</p> <p>Father Christmas and related helpers (elves etc.) and the children's photographer when they have contact with a child</p> <p>Children's play programs and holiday activity programs</p>	<p>Child volunteers</p> <p>Unpaid students on placement under 18</p> <p>Short-term visitors to WA</p> <p>Work carried out on a voluntary basis by a parent of a child in connection with an activity in which the child is participating or ordinarily participates</p> <p>Performances open to the general public, not involving physical contact with children, whether on payment of a fee or otherwise</p> <p>Where the service only involves the provision of equipment, food or a venue, and no other children's entertainment or party service</p> <p>Police officers performing functions as a member of the WA Police Force</p> <p>One-off national events and national tours</p>

19	Work that is the exercise or performance by a person of a power or duty delegated to the person by the CEO under section 45 of the <i>Working with Children (Criminal Record Checking) Act 2004</i>	This category is specifically for staff of the WWC Screening Unit	
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Source: The Screening Unit

## Appendix 2: Recommendations made in our 2014 audit report

Report recommendations	Current status
The Department for Child Protection and Family Support (now Department of Communities) should:	
<ul style="list-style-type: none"> <li>ensure the new application management system provides accurate information to support the allocating and prioritising of applications. This information should include how many and how long applications are waiting to be screened and assessed</li> </ul>	Implemented, but more needed
<ul style="list-style-type: none"> <li>prioritise applications for assessment based on risk and how long they have been waiting to be screened and assessed</li> </ul>	Implemented
<ul style="list-style-type: none"> <li>review staffing levels and capacity to more efficiently manage application processing and compliance monitoring</li> </ul>	Implemented
<ul style="list-style-type: none"> <li>finalise assessment and decision-making guidelines, including setting timeframes for screening and assessing applications and issuing interim negative notices</li> </ul>	Implemented, but more needed
<ul style="list-style-type: none"> <li>take a risk-based approach to review criminal record notifications received about working with child check cardholders from May 2011 to mid-November 2013 to ensure they were appropriately actioned</li> </ul>	Implemented
<ul style="list-style-type: none"> <li>work with WA Police Force to improve the matching of applications and cardholders between the 2 information systems</li> </ul>	Implemented
<ul style="list-style-type: none"> <li>prioritise and target audits of employers based on risk</li> </ul>	Not implemented
<ul style="list-style-type: none"> <li>ensure all foster carers have a valid working with children check card or application in process.</li> </ul>	Implemented but more needed

Source: OAG









## Auditor General's reports

Report number	2019-20 reports	Date tabled
9	An Analysis of the Department of Health's Data Relating to State-Managed Adult Mental Health Services from 2013 to 2017	9 October 2019
8	Opinions on Ministerial Notifications	8 October 2019
7	Opinion on Ministerial Notification	26 September 2019
6	Opinions on Ministerial Notifications	18 September 2019
5	Fraud Prevention in Local Government	15 August 2019
4	Access to State-Managed Adult Mental Health Services	14 August 2019
3	Delivering Western Australia's Ambulance Services – Follow-up Audit	31 July 2019
2	Opinion on Ministerial Notification	26 July 2019
1	Opinions on Ministerial Notifications	19 July 2019

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