

Western Australian Auditor General's Report



Working with Children Checks – Managing Compliance



Report 1: 2020-21

15 July 2020

**Office of the Auditor General
Western Australia**

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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

Working with Children Checks – Managing Compliance

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**THE PRESIDENT
LEGISLATIVE COUNCIL**

**THE SPEAKER
LEGISLATIVE ASSEMBLY**

WORKING WITH CHILDREN CHECKS – MANAGING COMPLIANCE

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

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 assessed whether the WA health system, the Department of Justice and the Department of Education complied with their Working with Children Check obligations. It follows on from my Office's 2019 report: *Working with Children Checks – Follow up*.

I wish to acknowledge the entities' staff for their cooperation with this report.

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

CAROLINE SPENCER
AUDITOR GENERAL
15 July 2020

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Auditor General's overview

This report contains the findings from our audit on how 3 large public entities manage their obligations under the *Working with Children (Criminal Record Checking) Act 2004*. It follows our October 2019 audit on how the Department of Communities administers the Working with Children Check process.



Working with Children Checks are an important part of every organisation's suite of controls to protect the children in their care. The public has every right to expect that public sector entities demonstrate the highest standards in implementing these controls to help keep children safe.

We found all the entities we audited understand the need for Working with Children Checks, and they had some systems in place to administer their obligations. However, we found gaps in processes, errors in record keeping, and shortcomings in performance monitoring. These gaps increase the risk that entities may not be able to ensure everyone who needs a Working with Children card, has one.

In this report, we have opted to de-identify the findings to allow us to progress the audit, while reducing pressure on agencies at the frontline of the State's COVID-19 response. We have provided each entity with detailed findings relevant to their organisation, so they are aware of the gaps in their systems and can take appropriate action. Entities' audit committees should monitor the timely implementation of those actions and my Office may conduct a follow-up audit in due course.

The issues we found serve as timely reminders. I encourage all organisations who work with children, public sector or otherwise, to consider the findings in this report. All entities should review their Working with Children control environment and where necessary implement the recommendations. This will help to ensure organisations are meeting their obligations to help keep children safe.

Executive summary

Introduction

This audit follows on from our previous reports on how the Department of Communities (Communities) manages the Working with Children Check process.¹ The audit assessed whether the WA health system, the Department of Justice and the Department of Education complied with their obligations to ensure everyone on their sites who needed a Working with Children Card (Card) had one. Collectively, the entities had more than 80,000 staff and a large number of volunteers, higher education students, and contractors engaged in child-related work.

The recommendations in this report are generally applicable across the public sector and to any other organisations where individuals work with children, and we encourage all entities to assess their own practices against the matters raised in the report. We have de-identified the findings in this report but have provided each entity with detailed findings to act on.

Background

The Working with Children Check is a compulsory screening strategy in Western Australia for individuals who work with children. Under the *Working with Children (Criminal Record Checking) Act 2004* (Act), no one may engage in prescribed child-related work without a valid Card, an active application, or an exemption.² This is an important control to help organisations keep the children in their care safe.

Individuals apply for a Card through Communities, who assesses the application. In deciding whether to issue a Card, Communities considers information such as whether an individual's criminal record and behaviour indicates they pose a risk to children. Communities can either issue a Card, decline the application (called a negative notice) or issue an interim negative notice while it conducts additional assessment.

Cards expire after 3 years, and individuals must renew their Card before it expires to keep working with children. Communities continually monitors cardholders, and can revoke a Card if it believes the individual poses a risk. If Communities revokes a Card, it notifies the individual's employer(s) as listed in the Communities database. As a result, it is important that employers notify Communities when hiring employees for child-related work.

While it is an individual's responsibility to apply for a Card, the Act also sets requirements for employers. Section 22 of the Act outlines when not to employ people in child-related work. For example:

- if they do not have a valid Card or application in process
- if they are aware the person has an interim negative notice or if the person has worked for them for more than 5 days in a year without a Card.

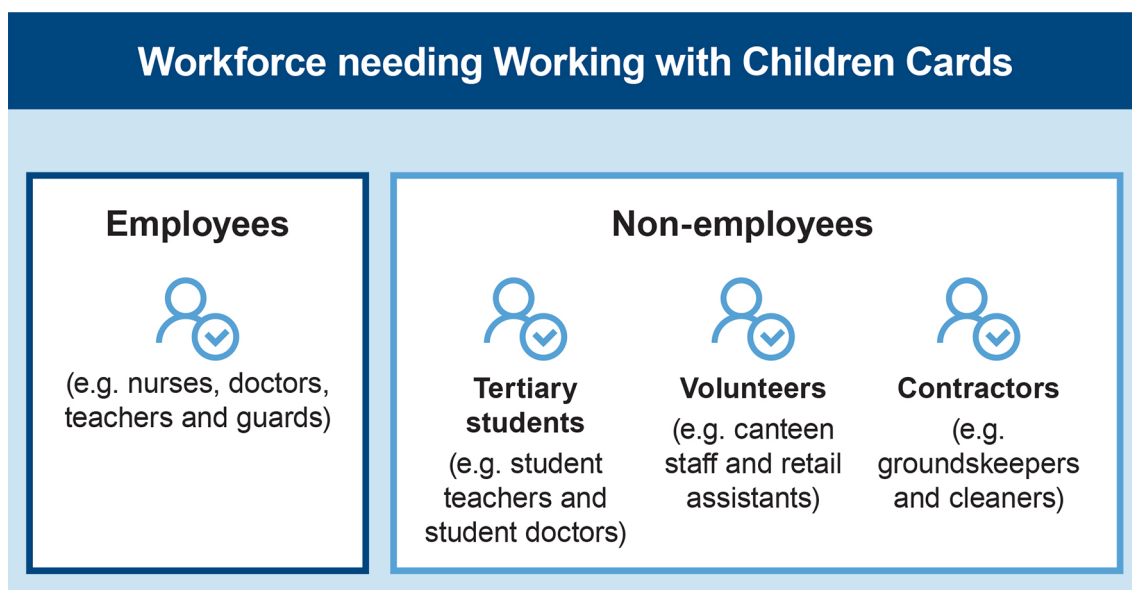
To provide a safe environment for children, entities must be sure that all individuals working with children are suitable (Figure 1). At a minimum, entities need to:

- identify which positions require a Card under the Act
- meet all the requirements of section 22 of the Act

¹ OAG 2014 [Report 15: Working with children checks](#) and OAG 2019 [Report 10: Working with Children Checks – Follow up](#)

² The Act provides a list of child-related work categories, as well as exemptions – see OAG 2019 [Report 10: Working with Children Checks – Follow up](#). Appendix 1

- ensure all students over 18, contractors and volunteers working with children on site have valid Cards
- check with Communities that Cards of new employees are still valid
- notify Communities when hiring new employees, so Communities can notify them if it revokes an employee's Card
- maintain accurate and complete records of Cards and applications for all individuals on site to meet the requirements of section 42 of the Act. Section 42 requires employers to provide Communities with evidence that they have complied with the Act, if requested.



Source: OAG

Figure 1: Examples of individuals within an entity that may need a Card.

Communities provides guidance on working with children obligations and templates for recordkeeping, which entities and individuals can access through Communities' website. Entities can check the validity of existing Cards or the status of applications before individuals start work using an individual's surname and either the application or Card number, and also notify Communities of any change in employees.

Audit conclusion

None of the 3 entities we audited fully complied with their Card obligations and they could not be sure that everyone who needs a Card, has one. All 3 entities understood the need for Cards, but control weaknesses create the risk that unsuitable individuals could work with children.

All the entities had policies requiring individuals working with children who needed a Card, to have one. However, these policies were not always followed. Further, practices across operational areas varied in effectiveness, and information was often decentralised. As a result, entities did not have a complete understanding of whether everyone working with children has a Card.

When individuals start working with children, the audited entities do not always check that Cards are valid or inform Communities of these new hires. This means entities may not be made aware when Communities revokes a Card and there is a risk that entities could allow unsuitable employees to work with children.

Findings

A lack of corporate direction and monitoring has contributed to inconsistent management of obligations

The 3 audited entities did not consistently manage their records to meet their Card obligations. For example, we found 1 entity had not identified the positions that need a Card, some operational areas did not understand what information needed to be recorded, and all entities' records were incomplete and contained errors. These gaps in controls mean that entities cannot be sure all individuals who need a card have one.

Card recording is inconsistent

All 3 entities recorded Card details. Each took a different approach:

- a centralised database of all individuals onsite, updated by operational areas, that directly checks the Card status of employees against the Communities database. This provides a good, consistent approach for all individuals
- a centralised database of employees only that is updated by a dedicated area within the entity. Cards of relevant tertiary student placements, volunteers and contractors are recorded in decentralised spreadsheets maintained by individual operational areas. As a result, approaches for tertiary students, volunteers and contractors can vary
- decentralised spreadsheets for all individuals on site maintained by individual operational areas. As a result, approaches to recording information can vary.

Without consistent recording of key information, entities cannot be sure their records meet their obligations, which increases the risk of unsuitable individuals working with children. In Case study 1, we found an entity inconsistently recorded Card information for students, contractors and volunteers. This entity did not capture information for these Cards in a central system and had not provided direction to their operational areas on what to record. As a result, while some areas had detailed records, others did not.

Case study 1: varying practices within a single entity

At 1 entity we reviewed a large operational area to see how well 8 of its business units recorded tertiary student, contractor and volunteer Card information. We found varying practices between the business units, with 4 units capturing detailed information, 2 units sighted Cards but did not record information, 1 took copies of Cards but did not create a register, and 1 did not keep records (Figure 2). The entity told us that the universities process all tertiary students through a database that requires students to have Cards. However, we could not find evidence entity staff checked this system. As a result, 3 of the business units cannot be sure that all individuals working on site have valid Cards.

	Number of business units	Approaches to capturing Card information
Appropriate details recorded	4	Records capture Card number, name and expiry date.
Limited details recorded	2	Records do not record Card number or expiry date, however, they do note staff sighted a Card.
	1	Copies of Cards taken, but no searchable records created.
No tracking	1	No information recorded.

Source: OAG based on entity data

Figure 2: Varying business unit approaches to recording Card information within 1 entity.

Incomplete and incorrect records prevent entities from knowing if all employees have a Card

Not all central records identify employee positions that require a Card. We found 1 entity relied on its operational areas to identify these positions, as it did not have a central listing, while the other 2 entities had flagged positions that needed a Card within their HR systems. Without a central listing of positions, entities cannot be certain everyone who needs a Card has one.

Card record systems all had missing or incorrect information. All entities' record systems had fields for essential Card information for employees, including:

- name
- date of birth
- Card number
- Card expiry date.

However, we found 5,783 (6.9%) of the 83,713 records had errors or gaps. These included incorrect Card numbers, alternate spelling of surnames and incorrect expiry dates (Figure 3). In 412 cases, the entities' records showed Cards as valid for longer than they actually were. These issues would prevent entities from checking if Cards were valid, or in some cases, knowing when a Card has or is about to expire.

Issues identified in entities' records	Number of records with issue*
Card number not recorded	80
Card number assigned to multiple individuals in the entity's records	6
Card number was not a real Card number	238
Surname in entities' record spelt differently to Communities' record	2,903
Date of birth different to Communities' records	8
Expiry date different to Communities' records	2,549

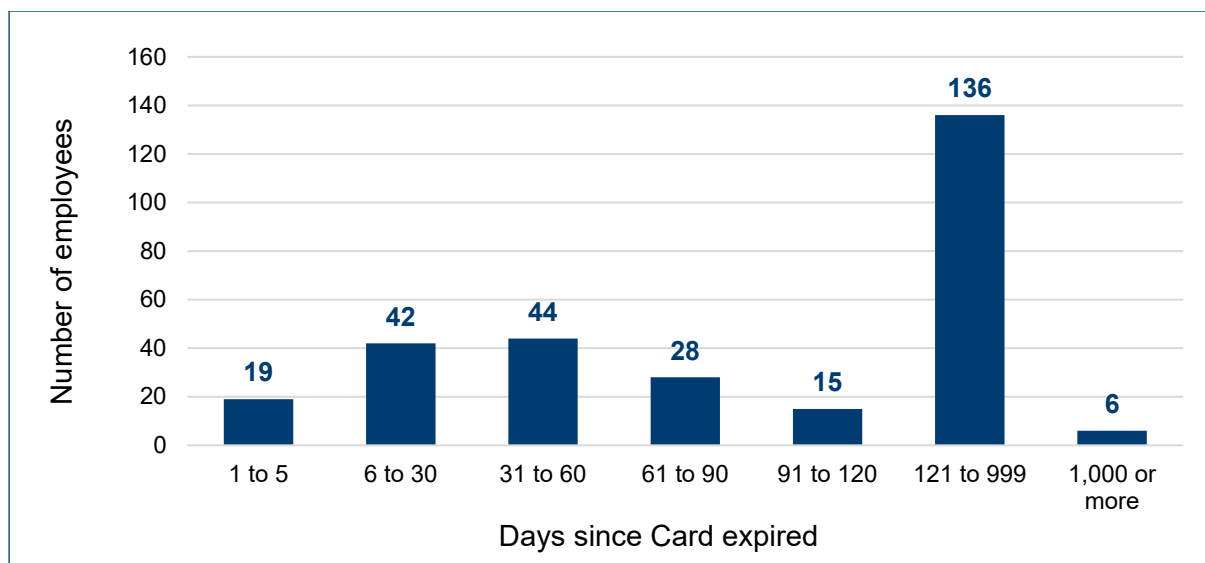
(* 1 record had multiple errors)

Source: OAG

Figure 3: Missing or incorrect employee information in the 3 entities' records.

While most employees had valid Cards, we found employees in all 3 entities whose Cards had expired. We did not find any employees working with children with a negative notice or an interim negative notice. We could match 80,486 records to Communities' database at a point in time and found 80,196 (99%) employees had valid Cards.³

For those 290 Cards that had expired, the majority had been expired for more than 5 days and more than half had been expired for more than 90 days (Figure 4). Entities would not have met their obligations under section 22 of the Act if they allowed these individuals to work with children for more than 5 days in a year. We have provided a list of these employees to each relevant entity, for follow-up purposes.



Source: OAG

Figure 4: Expired Cards across all 3 entities, at 4 November 2019.⁴

Executive teams do not adequately monitor how well their entities manage Cards

Entities do not have a good understanding of how well they manage Card obligations. None of the executive teams at the 3 entities received detailed information on how Card obligations were met across their operations. One entity's executive team did not receive any reports on

³ Comparing entity records to a snapshot of the Communities Working With Children database from 4 November 2019

⁴ This table excludes employees who were on leave on 4 November 2019, as they were not working with children on that day

how well Cards were managed. The other 2 entities only provided their executive team with the total number of expired Cards, without information on how long Cards had been expired or a breakdown by operational areas. Periodic performance monitoring by executive teams is an effective way for entities with diversified and decentralised operations, like the 3 we audited, to identify and address systemic compliance issues.

In the 2 entities with centralised data systems, operational areas receive reports when employee Cards expire or are due to expire. This helps these operational areas proactively manage compliance.

Entities may not know when Cards have expired or been revoked

Automated and manual processes to check Cards are not fully effective and increase the risk that entities could allow unsuitable individuals to work with children. We found:

- at the entity with automated Card checks against the Communities database, these checks were not always effective. Staff did not add all individuals to the record system and as a result, the automated process could not check all Cards. This automated system could provide the entity with an effective control. However, for it to be fully effective, all individuals need to be entered
- entities cannot be sure manual checks were done. The 2 entities that relied on manual processes to check Cards against the Communities' webpage did not capture if these checks were performed, and we found no other evidence that they were.

Entities may not be notified when Cards are revoked by Communities, as they do not always inform Communities of new hires. We checked entities' Card records against the Communities database for 5 operational areas, across the 3 audited entities. We matched 690 individuals and found the Communities database did not list the entity as an employer in 53 (7.7%) cases. These Cards were still valid, but Communities would not know to notify the entities if it revoked the Card. As a result, entities would not be aware they are placing children at risk if a Card is revoked by Communities.

We acknowledge, that during the audit, 1 of the operational areas improved its processes and registered existing employees with Communities.

Some policies and procedures do not provide staff with adequate guidance

Not all policies provided staff with clear guidance on how to manage Card obligations. We found 1 entity did not have an up-to-date policy or procedures that align to the entity's current organisational structure. Instead, operational areas relied on old policies from 2010 that did not provide guidance on which positions in the new structure needed a Card and referred staff to non-functioning hyperlinks. Up-to-date policies and procedures help staff fulfil their duties to manage Card obligations. The entity told us it is reviewing its policies and hopes to complete this work in 2020.

While the other 2 entities had central policies, we found some staff were unaware of existing policies. We interviewed staff who managed Cards and found some were not familiar with their entity's working with children policy. Entities should actively promote awareness of their policies to reduce the risk of them not meeting their working with children obligations. We note that 1 entity developed an online training package about their policy in February 2019, which only 1.5% of staff had completed in the 10 months up to our audit.

Recommendations

All public sector entities who work with children, including those not sampled in this audit, should consider the findings in this report and implement the recommendations where appropriate, by 31 December 2020. To ensure they manage their working with children obligations, all entities should:

1. review their policies and procedures and communicate these to staff
2. ensure their Card records:
 - a. identify all positions that require a Card and ensure that all individuals in those positions have a Card
 - b. capture sufficient information to track and monitor the Card status of all individuals, including Card number, surname, expiry date and where necessary, date of birth.
 - c. are complete and accurate
3. ensure all Cards are valid by:
 - a. checking the Cards of all individuals against the Communities database, before they start working with children
 - b. registering new employees with Communities
 - c. re-checking all Cards, at least once per year
4. monitor how they manage Card obligations through regular, detailed reporting on entity compliance to executive.

Response from audited entities

The 3 entities we audited generally accepted our recommendations and confirmed where relevant they would amend their policies, procedures and systems to improve Working with Children controls.

Audit focus and scope

This audit assessed whether the entities within the WA health system, the Department of Justice and the Department of Education complied with their working with children obligations. We focused on the following criteria:

- Have the entities identified all positions that require a Working with Children Card?
- Do the entities ensure all positions that require a Working with Children Card have a valid Card or application in process?

We reviewed the entities' approaches to managing their Card obligations for all individuals engaged in child-related work on their sites. This includes employees, as well as tertiary students, contractors and volunteers.

During the audit we:

- reviewed entity policies and procedures
- reviewed entity Card recordkeeping systems
- checked more than 83,000 entity records against a snapshot of the Department of Communities' database from 4 November 2019, to identify the number of individuals working for audited entities who had valid Cards
- interviewed key staff within the WA health system, the Department of Justice and the Department of Education, across both central and operational areas.

This was a 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 was \$464,830.

Auditor General's 2020-21 reports

Number	Title	Date tabled
1	Working with Children Checks – Managing Compliance	15 July 2020

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