Government of **Western Australia**
Department of **Health**

Consultation Regulatory Impact Statement

Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019

Strengthening immunisation requirements for enrolment into child care services and kindergarten programs in Western Australia

Public Health Act 2016 (WA)

School Education Act 1999 (WA)

March 2019

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Disclaimer

The views expressed in this document may not, in any circumstances, be interpreted as stating an official position of the Department of Health.

This document is intended to serve as the basis for further discussion with interested stakeholders.

Contents

Invitation to Make a Submission

The Department of Health (DoH) is undertaking a public consultation on the Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019 ('the Bill'), which proposes that, with rare exception, children in Western Australia (WA) need to be fully vaccinated for age as a condition of enrolment into child care services, community kindergartens and schools, before the compulsory education period. This Consultation Regulatory Impact Statement (CRIS) should be read alongside the Bill, as it outlines the public health issue the Bill is addressing, provides background information to the development of the immunisation policy itself, investigates the experience of similar legislation in other Australian jurisdictions, and explores each of the Bill's proposals in terms of anticipated impacts to the early education and care industry, families and the State Government.

Guiding Questions

You are invited to participate in this public consultation by responding to the Guiding Questions under the Options and the Proposals. The Guiding Questions facilitate the consultation process by providing a framework for submissions. You do not have to respond to all questions, and instead you may prefer to respond to only those questions that are relevant to you.

In providing your response, please explain the reasons behind your comments and where possible provide evidence to support your views e.g. statistics, publications, examples.

How to Make a Submission

Online	https://consultation.health.wa.gov.au/
Email	Complete the Guiding Questions and email to: immunisation@health.wa.gov.au
Post	Complete the Guiding Questions and post to: Immunisation Consultation Communicable Disease Control Directorate Public and Aboriginal Health Division Department of Health PO Box 8172 Perth Business Centre WA 6849

You can also provide any additional feedback on the Bill by emailing: immunisation@health.wa.gov.au.

Closing Date

The closing date for submissions is **26 March 2019 at 5pm (WST)**.

1 Executive Summary

The Western Australian (WA) Government is proposing that immunisation requirements for children enrolling into child care services, community kindergartens, and schools, before the compulsory education period, are strengthened through the Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019 ('the Bill'). A public consultation on this Bill is currently being undertaken by the Department of Health (DoH), seeking stakeholder feedback on the seven proposals contained in the Bill.

Although the immunisations recommended in the Australian childhood immunisation schedule are provided at no cost under the National Immunisation Program[1] (NIP), and the DoH's immunisation program continues to deliver diverse initiatives which aim to increase access to immunisation services across the state under the *WA Immunisation Strategy 2016-2020*[2], according to data in the Australian Immunisation Register (AIR), WA has lower childhood immunisation rates compared to other jurisdictions, and continues to experience the ongoing incidence of vaccine-preventable notifiable infectious diseases (VPDs).

At least 95% of children should be fully immunised to effectively prevent outbreaks of highly infectious diseases like measles, which is also life threatening. Known as herd immunity, the 95% immunisation rate is important to protect others in our community, including those who are too young to be vaccinated and those who are unable to be vaccinated for medical reasons, including pregnant women, children with immune disorders and some cancer patients.

The WA Government is currently investigating the introduction of additional legislation intended to increase childhood immunisation rates, for which there are two options:

- **Option A** – Fully implement recently introduced regulations requiring the collection and reporting of immunisation information by child care services, community kindergartens and schools at the time of enrolment, and monitor any impact before changing the status quo.[3]
- **Option B** – Amend the *Public Health Act 2016* (WA) ('the Act') to require, with rare exception, children in WA to be fully vaccinated for age as a condition of enrolment into child care services, community kindergartens and schools, before the compulsory education period.

Option A refers to regulations which came into effect in January 2019 under the *Public Health Act 2016* (WA) which mandate universal immunisation records checks for children when they enrol into a child care service, community kindergarten and school, and allow the Chief Health Officer (CHO) to request reports on the immunisation status of any child or children enrolled.[4] Families of under-vaccinated children who are reported to the DoH under the regulations will be offered assistance with obtaining vaccinations but there is no exclusion of these children from

[1] *National Immunisation Program*; Department of Health, Commonwealth of Australia. Available at: https://beta.health.gov.au/initiatives-and-programs/national-immunisation-program

[2] *Western Australian Immunisation Strategy*; Department of Health, Government of Western Australia. Available at: https://ww2.health.wa.gov.au/Articles/F_I/Immunisation-strategy-2016

[3] *Immunisation enrolment requirements for child care services, kindergarten and schools;* Department of Health, Government of Western Australia. Available at: https://ww2.health.wa.gov.au/immunisationenrolment

[4] *Immunisation enrolment requirements for child care services, kindergarten and schools;* Department of Health, Government of Western Australia. Available at: https://ww2.health.wa.gov.au/immunisationenrolment

attending or enrolling into a child care service, community kindergarten or school, before the child's compulsory education period.

Option B would introduce immunisation enrolment requirements for non-compulsory early education and child care services, similar to policies already implemented in Victoria and New South Wales, referred to colloquially as "No Jab No Play" (NJNP; see Section 6).

At the Premier's direction, an interagency working group comprising representatives from the Departments of Health (DoH), Education (DoE), Communities (DoC) and the Premier and Cabinet (DPC) have worked together to develop legislation to progress Option B. The key components of the proposed Bill are reflected in the following seven Proposals listed below. In accordance with the Regulatory Impact Assessment (RIA) process,[5] this public consultation is seeking feedback on these Proposals as outlined within this Consultation Regulatory Impact Statement (CRIS):

Proposal 1 – Require, with rare exception, a child's immunisation status to be 'up to date' as a condition of enrolment into child care services and kindergarten programs

Proposal 2 – In specified circumstances, allow for documentation other than a child's AIR Immunisation History Statement to be used to satisfy immunisation requirements for enrolment into child care services and kindergarten programs

Proposal 3 – Prescribe the categories of children for which exemptions to immunisation requirements for enrolment into child care services and kindergarten programs apply

Proposal 4 – Enable updated information about a child's immunisation status to be provided at times other than enrolment

Proposal 5 – Offences for which penalties may be issued

Proposal 6 – Minor technical amendments to the *Public Health Act 2016*

Proposal 7 – Consequential amendments to other legislation

Amendments to the *School Education Act 1999* (WA) are also required, to provide consistency and to complement the proposed amendments to the Act. These amendments are being addressed simultaneously in the Bill.

To support implementation of the Bill, various matters are also required to be prescribed in regulation. The proposed content of these regulations is also detailed under the relevant Proposal later in this document. Minor consequential amendments are also required to the *Public Health Regulations 2017*, *School Education Regulations 2000* and *Child Care Services (Child Care) Regulations 2006*. At a later stage in 2019, consequential amendments to the *Education and Care Services National Regulations 2012* (WA) will also be introduced.

[5] *Regulatory Impact Assessment Guidelines for Western Australia*; Regulatory Gatekeeping Unit (now known as the Better Regulation Unit); Department of Treasury and Finance, Government of Western Australia; updated July 2010. Available at: https://www.treasury.wa.gov.au/uploadedFiles/Site-content/Economic_Reform/RIA_Program/ria_guidelines.pdf

2 Aim

This CRIS outlines the public health issue to be addressed, the current provision of childhood immunisation programs in WA under the NIP, the newly introduced immunisation-related regulations, and the experience of the implementation of similar No Jab No Play legislation in other Australian jurisdictions.

Two feasible and practical options to improve WA's childhood immunisation rates are presented, however it is the seven Proposals which constitute Option B that encompass the Government's preferred policy. This CRIS explains the Proposals and should be read alongside the Bill to aid participation in the public consultation.

3 Introduction

In September 2017, Premier McGowan directed that WA should introduce immunisation requirements for children enrolling in child care services and kindergarten programs in WA. Amendments are proposed to the Act to require that, with rare exception, children in WA need to be fully vaccinated for age as a condition of enrolment into child care services, community kindergartens, and schools, before the compulsory education period, unless the child has an approved medical exemption, is on an approved catch-up schedule, or is identified as being vulnerable and/or disadvantaged under prescribed exemption categories. Queensland, Victoria and New South Wales have already introduced legislation with similar underlying policy objectives, and South Australia is planning to do so in the near future.

Immunisation is a safe and effective way of protecting individuals against serious infectious disease.[6] Immunisation not only protects individuals from life-threatening diseases, but can also reduce the spread of disease within a community, a phenomena often referred to as indirect protection or 'herd immunity.' The higher the proportion of people who are immune to a disease through vaccination, the fewer opportunities a disease has to spread.[6] Creating 'herd immunity' is important for protecting individuals who cannot be directly immunised themselves, often because they are too young to receive the vaccine or because they have a medical contra-indication.

3.1 Proposed No Jab No Play policy in WA

A working group consisting of representatives from the DPC, DoH, DoE, and DoC developed an approach for implementing a No Jab No Play (NJNP) policy in WA (see Table 1).

Table 1 Approach to strengthening immunisation enrolment requirements for children in WA

No Jab No Play in WA - subject to the current public consultation
Description ▪ Introduce the proposed Bill to require that, with rare exception, children in WA are fully vaccinated for age as a condition of enrolment into child care services, community kindergartens and schools, before the compulsory education period commences. ▪ In most instances, in order to enrol, a child's immunisation status will be required to be recorded as 'up to date' on an AIR Immunisation History Statement issued within 2 months of the proposed enrolment. ▪ Children with an approved medical exemption to a vaccine or natural immunity to a specific disease are 'up to date' for the relevant vaccine according to their AIR Immunisation History Statement.

[6] *National Immunisation Program;* Department of Health, Commonwealth of Australia. Available at: https://beta.health.gov.au/initiatives-and-programs/national-immunisation-program

No Jab No Play in WA - subject to the current public consultation

- Exemptions to the child care and kindergarten immunisation requirements will apply to children who are:
  - on an approved immunisation catch-up schedule; or
  - identified as being an exempt child.
- This proposed WA NJNP immunisation policy acknowledges the importance of access to early education as enunciated in the *2018-2019 National Partnership Agreement on Universal Access to Early Childhood Education.*[7] Early education services can be particularly important for vulnerable and disadvantaged children, who should be supported to ensure their participation in early education services. It is proposed that under this policy vulnerable and disadvantaged children who are under-vaccinated will be exempt from the requirement to be fully vaccinated for age, as a condition of enrolment into child care services and kindergarten programs.
- Under-vaccinated children who are enrolled in child care services, community kindergartens and schools, before compulsory education period, on an exemption, and children who are enrolled on an approved immunisation catch-up schedule, will be reported to the DoH.
- The DoH will follow up with the families of these under-vaccinated children to provide support in accessing local immunisation services.

Legislative changes for the proposed NJNP policy in WA are being progressed in accordance with the RIA process, and under the guidance of the Better Regulation Unit. The RIA process ensures that any proposed new regulation is efficient and effective, and addresses a clear and identifiable public health issue within the community. The RIA process also provides assurance to government and stakeholders that a rigorous and transparent assessment of the impacts has been carried out, and that effective and appropriate consultation has taken place. As the proposals within the WA NJNP policy are likely to have an impact on the early education and child care industry, families and the State Government, this CRIS has been developed and released alongside the Bill, in accordance with the RIA process. The primary purpose of this CRIS is to facilitate public comment on the options and proposals, and their potential impacts, so as to enable Government to form a balanced and evidenced-based view on the best way to proceed.

The purpose of the proposed amendments to the *Public Health Act 2016* and *School Education Act 1999* is to mitigate the risk of VPDs occurring among children attending child care services, community kindergartens, schools and the wider community, by ensuring that, with rare exception, all children enrolled in these services are fully vaccinated for their age. The proposed legislative changes will not apply to compulsory schooling which commences with pre-primary school in WA.

The rationale for the immunisation policy is that, if young children do not receive their recommended vaccinations, they are at increased risk of serious illness. If a substantial number of children are unvaccinated, there is an increased risk of VPDs spreading within early education and care settings, and potentially, the wider community. While the Commonwealth's existing No Jab No Pay scheme aims to achieve high immunisation rates among children attending child care services, for children who do not attend a child care service, kindergarten programs are usually their first entry point into early education and care and the broader school system. In this regard, enrolment into kindergarten programs offer an additional check point, occurring at a critical age for a child to receive the recommended vaccinations on the NIP's childhood schedule (birth to four years). This policy aims to promote the recommendations of the childhood

[7] *2018-2019 National Partnership on Universal Access to Early Education*, Department of Education and Training, Commonwealth Government. Available at: https://www.education.gov.au/national-partnership-agreements

schedule, by ensuring that by the time children reach kindergarten or during the year they turn 4, they have completed their childhood immunisation schedule.

The new immunisation requirements will apply to children enrolling in a child care service (other than a child care service that operates on a temporary, casual or ad hoc basis). It will also apply to enrolments in a pre-kindergarten program and kindergarten program in a government school, non-government school or community kindergarten (see Table 2). Community kindergartens, of which there are approximately 24 currently operating in WA, are typically run by a parent management committee, operate in standalone facilities, and are linked to local public schools.[8]

Table 2 Definition of early education and care services for which the proposed No Jab No Play legislation will apply in WA

Services included	Services excluded
▪ Child care services which are: - centre-based care - long day care - family day care ▪ Community kindergartens ▪ Government and non-government schools: - pre-kindergarten programs - kindergarten programs	▪ Child care services which are: - occasional care services - ad hoc child care e.g. crèches - vacation care; or - outside school hours care

4 Statement of the public health issue

Despite all efforts to achieve and maintain immunisation rates of 95% and above, which is the aspirational target and considered necessary to achieve 'herd immunity' for a highly infectious disease like measles, immunisation coverage among WA children remains lower than other Australian jurisdictions,[9] and outbreaks of VPDs continue to occur in WA.

4.1 Cases of vaccine-preventable diseases in WA

Vaccine-preventable disease (VPD) continues to occur within the WA population (see Table 3). The number of disease notifications is monitored by the Communicable Disease Control Directorate (CDCD), DoH. Children under five years have some of the highest disease rates for a number of VPDs. Individuals who are not fully immunised are at risk of acquiring VPDs and transmitting them to others individuals, including those who cannot be immunised for medical reasons, and those who are too young to receive certain vaccines. Immunisation helps to prevent individuals from acquiring VPDs, and also helps to protect other members of the population by reducing exposure to disease.

[8] *Community Kindergartens Association WA*, Community Kindergartens Association WA. Available at: http://www.cka.asn.au/

[9] *Immunisation coverage rates for all children;* Department of Health, Commonwealth Government; accessed 3 December 2012 at: https://beta.health.gov.au/health-topics/immunisation/childhood-immunisation-coverage/immunisation-coverage-rates-for-all-children

Table 3 Number of notifications of selected vaccine-preventable diseases in WA by year, 2014-2018

Disease	Year				
	2014	2015	2016	2017	2018
Population	2,557,046	2,590,259	2,668,628	2,714,687	2,762,238
Measles	43	7	11	17	36
Meningococcal	17	17	21	45	40
Mumps	23	454	481	23	18
Pertussis (whopping cough)	1,747	1,866	1,521	1,506	1,313
Pneumococcal infection	205	166	200	197	205
Rubella	1	2	1	2	1
Varicella (chicken pox)	424	483	611	692	647

Note: Data sourced from the Immunisation, Surveillance and Disease Control Program, Communicable Disease Control Directorate, Department of Health WA.

Pertussis is the most commonly notified VPD in WA. From 2016 to 2018, the notification rate was highest in those aged 14 years or younger (average: 110 per 100,000 population), although the rate among this age group decreased by 34% from 2017 to 2018 (131 to 81 per 100,000 population).

The annual number of mumps cases is generally low in WA, but in 2015 and 2016 there was an outbreak of mumps amongst young Aboriginal people living in the remote regions of WA. Over the five year period from 2014 to 2018, the highest number of cases were in adolescents aged 15 to 19 years (187 cases, 19%), followed by children aged 10 to 14 years (160 cases, 16%).

There were 973 cases of invasive pneumococcal disease notified from 2014 to 2018, with children aged less than 14 years comprising 18% of cases. During this time period, 888 (91%) of the cases were hospitalised, and 103 (11%) died. The majority of the cases presented with pneumonia (65%) or bacteraemia (31%), with a smaller number presenting with meningitis (7%).

There were 140 cases of invasive meningococcal disease (IPD) cases from 2014 to 2018. Children under five years old comprised 45% (18 cases) of all meningococcal notifications in 2018. The notification rate for this age group was seven-times higher than the overall rate that year (9.7 and 1.4 per 100,000 respectively). There were no deaths caused by meningococcal disease during 2018. The number of meningococcal notifications increased from 2016 to 2018 due to an increase in the number of serogroup W cases. Half of all meningococcal W cases in 2018 were in children aged less than 5 years of age. In 2018, WA introduced a program to provide free meningococcal ACWY vaccination to children less than 5 years of age, following which the meningococcal ACWY vaccination became part of the NIP in July 2018.

Measles cases notified in WA from 2014 to 2018 were associated with importations from overseas (49%) and subsequent local transmissions (50%). The age groups with the highest number of measles cases were children under 5 years (16 cases), teenagers 15 to 19 years (15 cases), and adults aged 20 to 39 years (62 cases). All of the young children infected with measles had not received a measles vaccination.

4.2 Immunisation rates in WA

At least 95% of children should be fully immunised to effectively prevent outbreaks of a highly infectious disease like measles. Achieving a 95% immunisation rate (called 'herd immunity') is important to protect members of our community that are too young to be vaccinated and those who are unable to be vaccinated for medical reasons, including pregnant women, children with immune disorders and some cancer patients.

Immunisation coverage is monitored by the Federal Government's Australian Immunisation Register (AIR) which is a national database of vaccinations administered to individuals. AIR produces quarterly reports detailing childhood immunisation coverage by jurisdiction and by three age groups (12 ≤ 15 months, 24 ≤ 27 months, and 60 ≤ 63 months). The data presented in Figures 1 to 9 was provided in these quarterly AIR reports.

From 2010 onwards, immunisation coverage in WA has improved as shown by the proportion of children fully vaccinated, by quarter and age group in Figure 1. (Note the precipitous decline in 2 year olds was the result of changes to the definition of 'fully vaccinated' at that age-point, a data artifact observed nation-wide.)

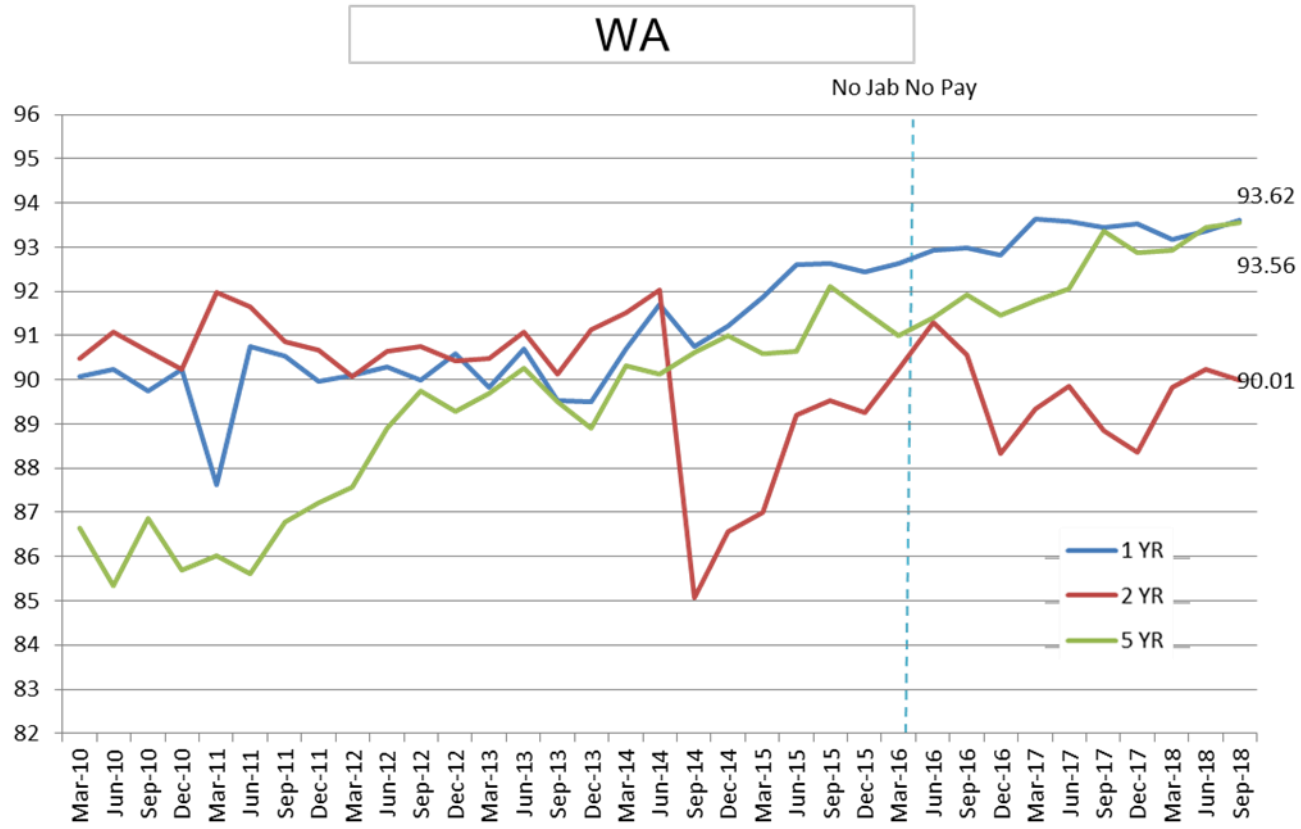

Figure 1 **Immunisation rates for children aged one, two and five years in Western Australia, March 2010 – September 2018**

However, WA is below the target of 95% immunisation coverage for each age group reported in AIR, and immunisation coverage rates in WA have lagged behind those for other Australian states and territories. In data extracted on 31 December 2018, WA had the second lowest immunisation rates compared to other jurisdictions for 12 ≤15 months (93.4%) and 24 ≤ 27 month old children (90.0%), and the lowest immunisation coverage for children aged 60 ≤ 63 months (93.6%) (see Figure 2).

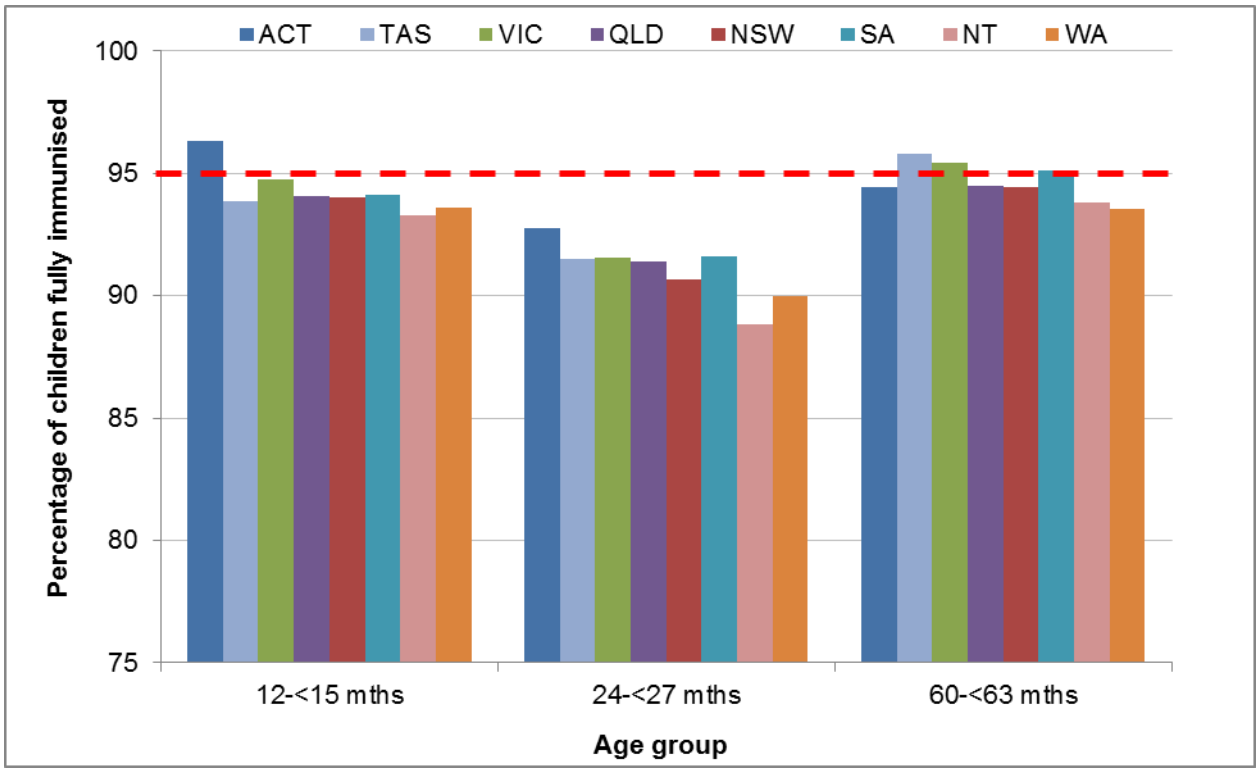

Figure 2 **Percentage of children aged one, two and five years old who are fully immunised across all Australian states and territories, as of December 2018**

For the past two years immunisation rates for children in the 12 ≤ 15 month and 24 ≤ 27 month age groups in WA have been generally consistent with their counterparts in New South Wales, Victoria and Queensland where No Jab No Play policies have been established (see Figure 3 and Figure 4, respectively), whereas for the 60 ≤ 63 month age group, the WA immunisation rate has been lower than these jurisdictions (see Figure 5).

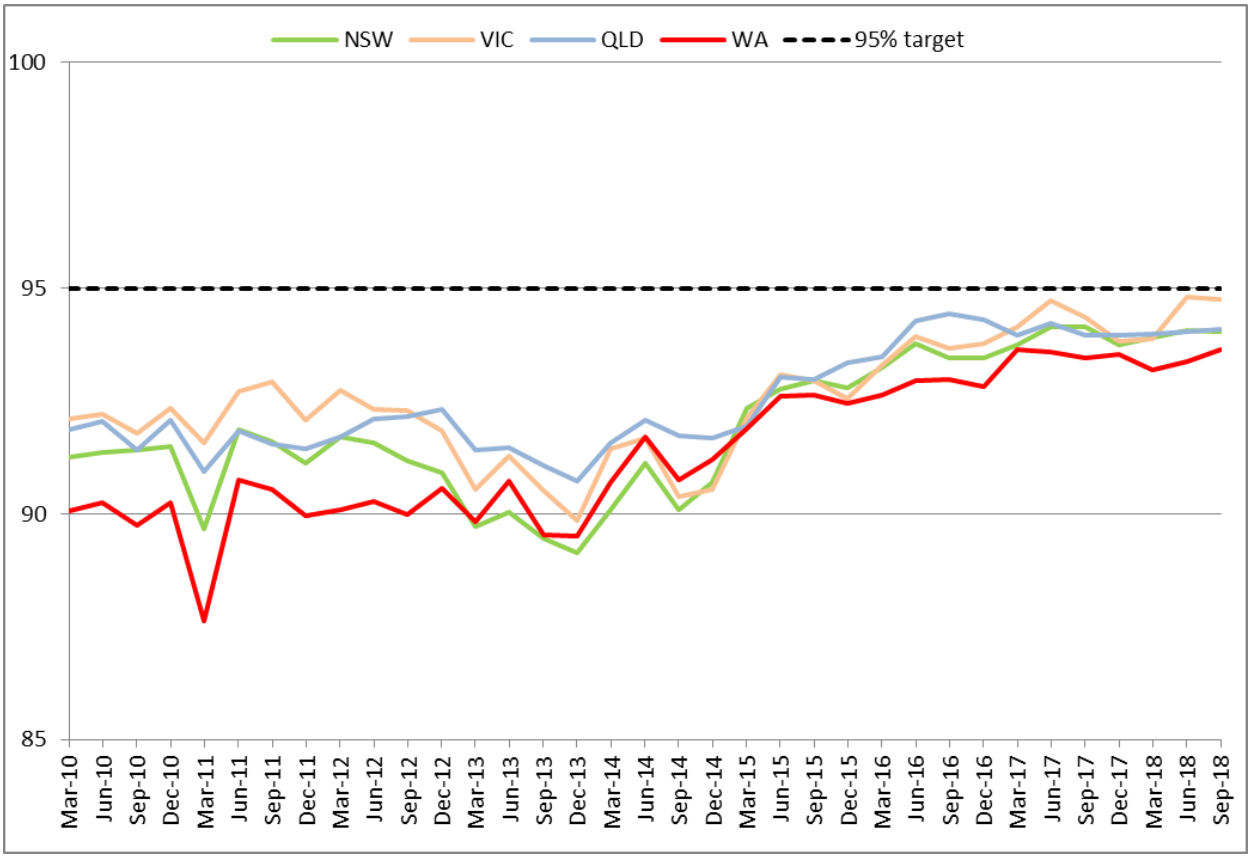

Figure 3 **Percentage of WA children aged 12 ≤ 15 months fully immunised by states with No Jab No Play policies compared to WA, March 2010 – September 2018**

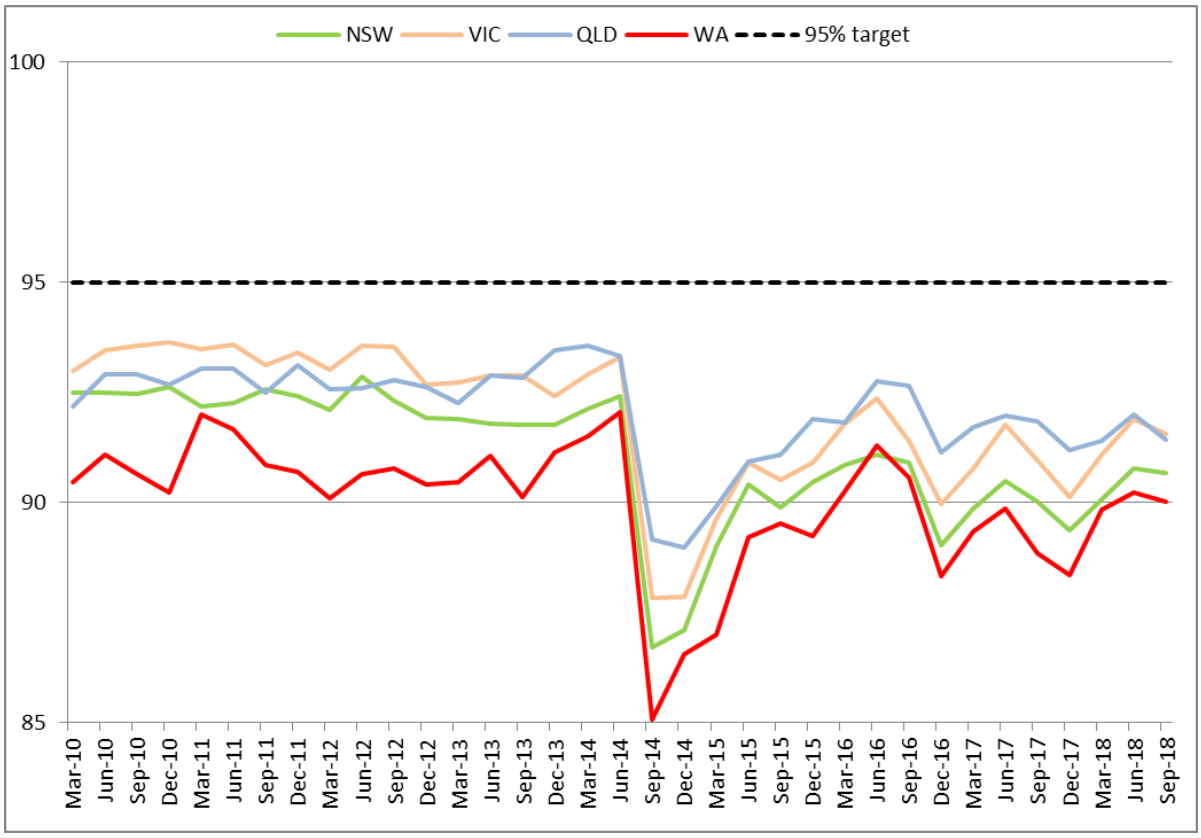

Figure 4 **Percentage of WA children aged 24 ≤ 27 months fully immunised by states with No Jab No Play policies compared to WA, March 2010 – September 2018**

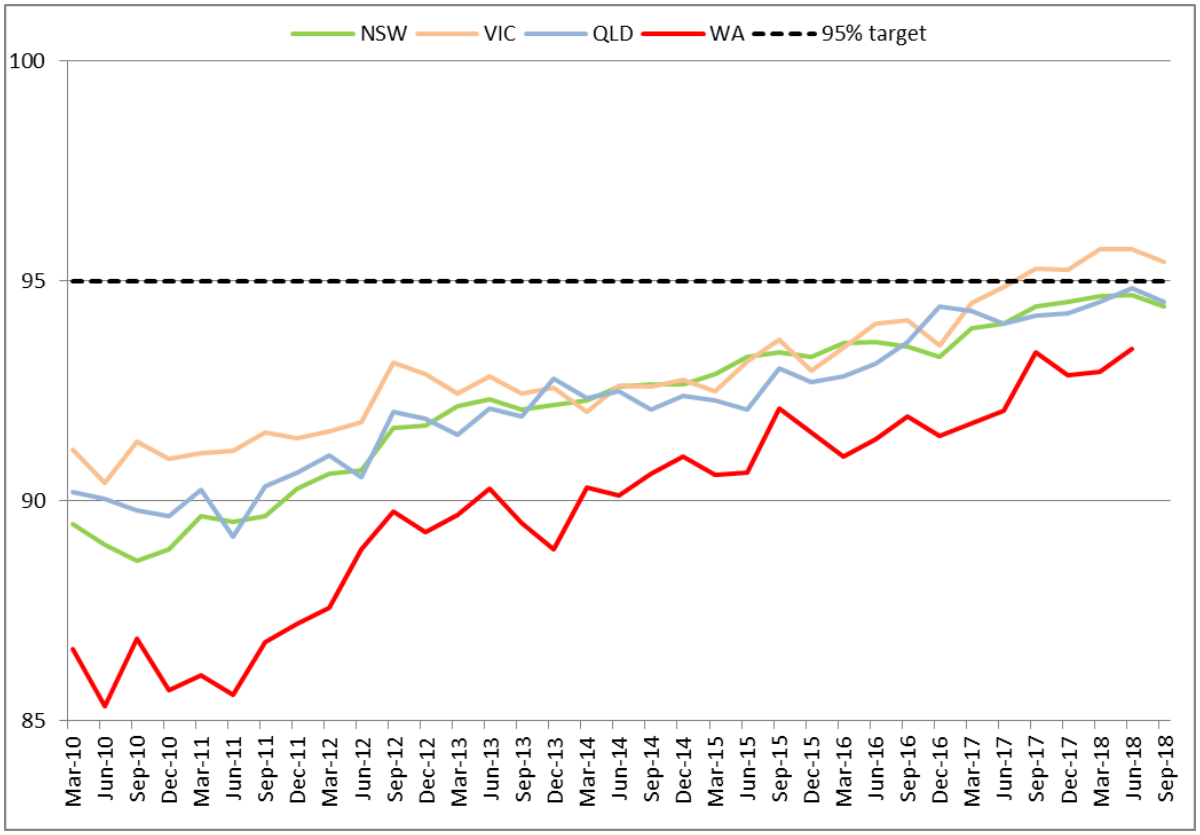

Figure 5 **Percentage of WA children aged 60 ≤ 63 months fully immunised by states with No Jab No Play policies compared to WA, March 2010 – September 2018**

In data extracted on 31 December 2018, immunisation coverage in WA varies across local government areas for children aged 60 ≤ 63 months (see Figure 6 and Figure 7).

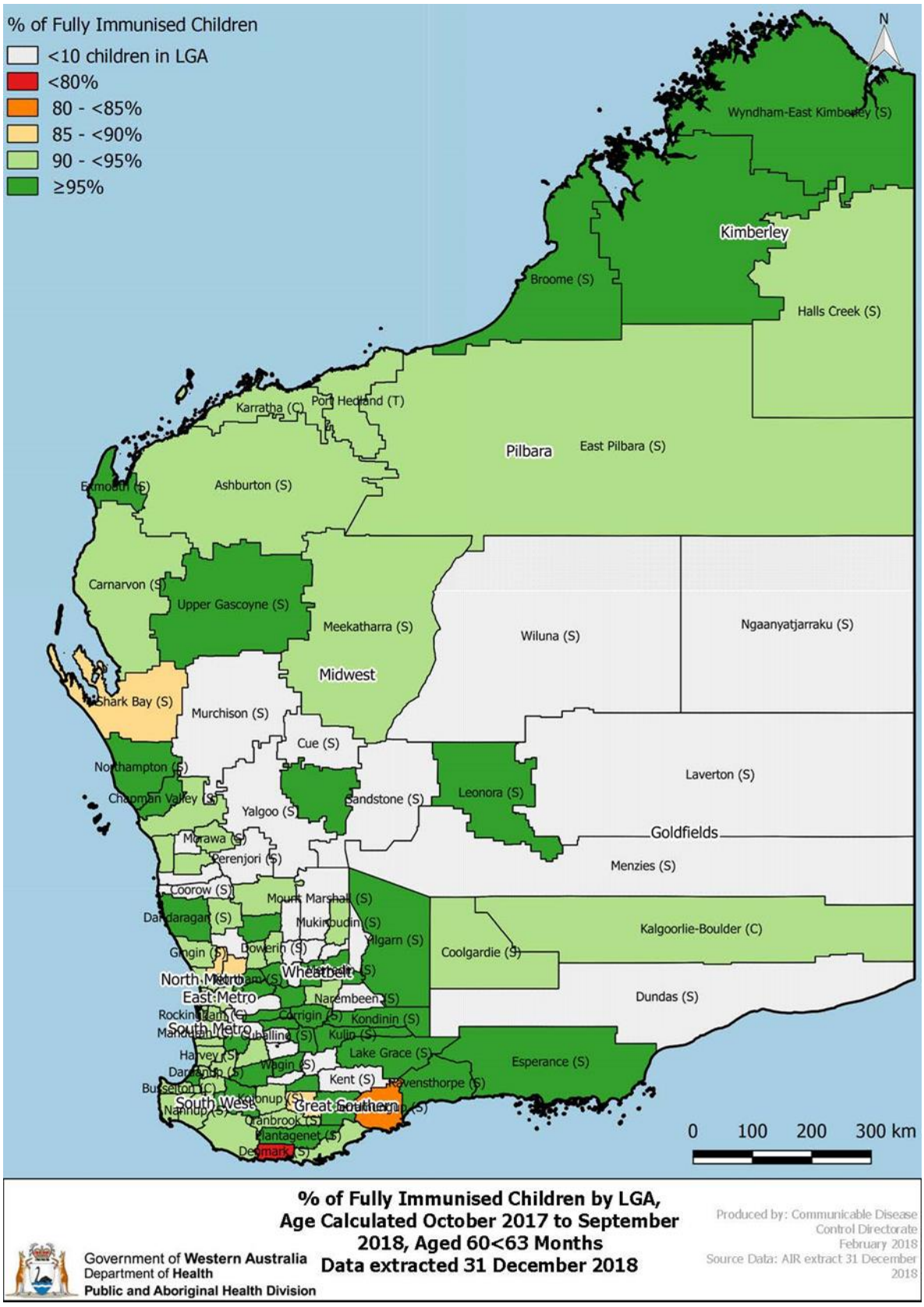

Figure 6 **Percentage of children fully vaccinated at 60 ≤ 63 months of age in WA, by local government area, data extracted 31 December 2018**

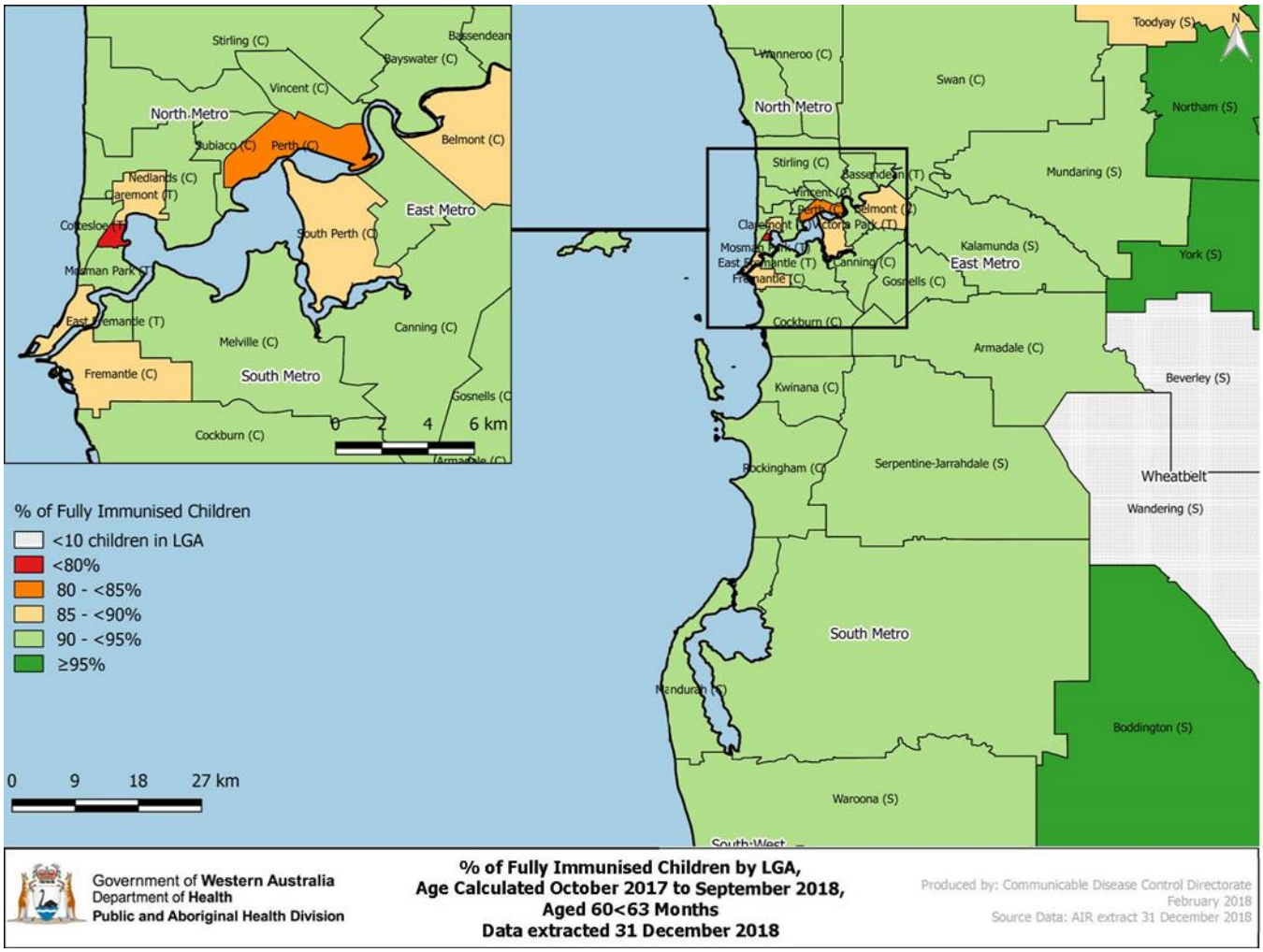

Figure 7 **Percentage of children fully vaccinated at 60 ≤ 63 months of age in WA, by metropolitan local government area, data extracted 31 December 2018**

For children aged five years (60 ≤ 63 months), immunisation rates in the metropolitan area and the regions have increased since 2011. During this period, the regions (denoted in Figure 8 as 'WACHS', which is the WA Country Health Service) have consistently had higher immunisation rates than the metropolitan area.

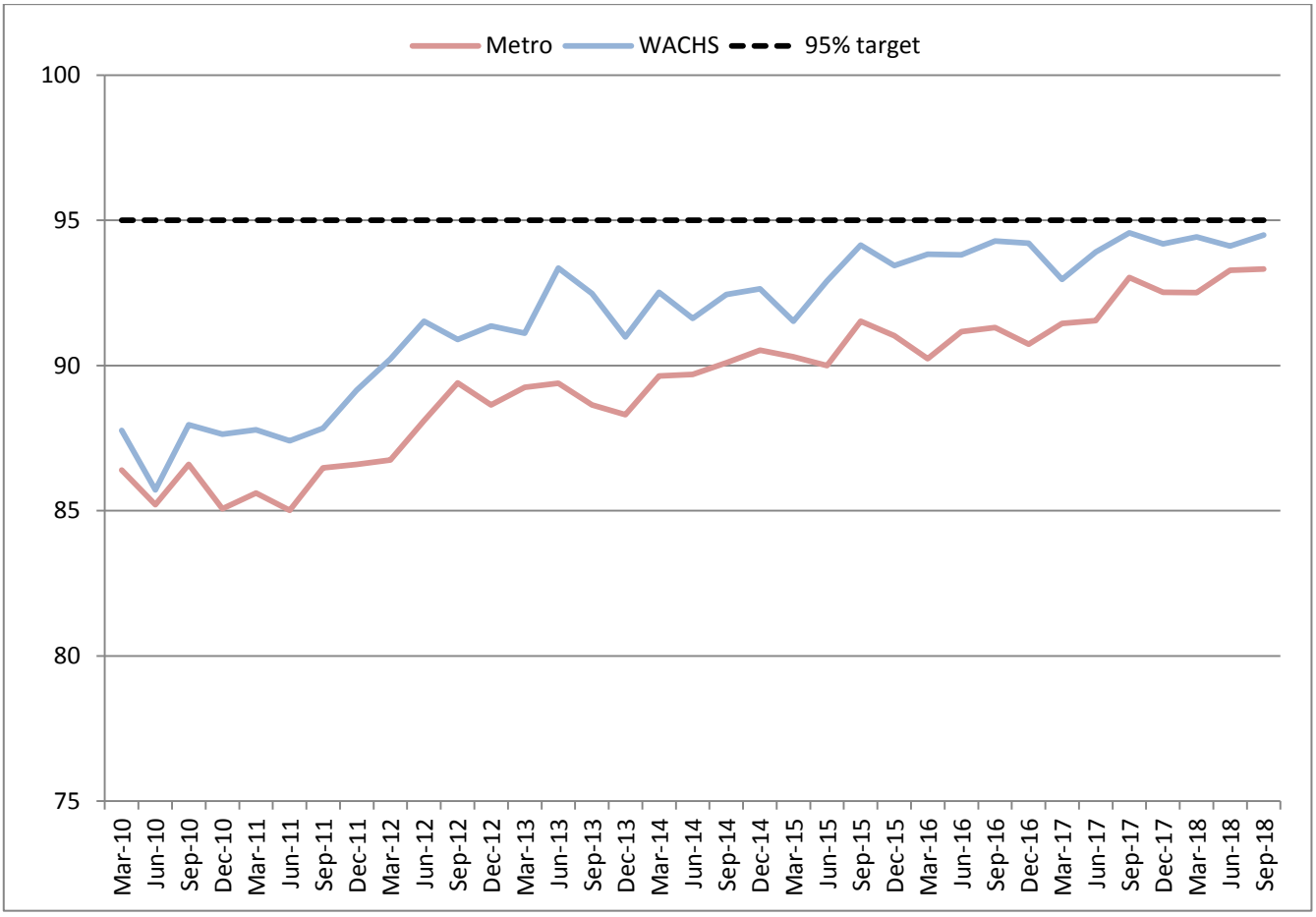

Figure 8 **Percentage of children aged 60 ≤ 63 months fully immunised by metropolitan area and the regions (WACHS), March 2010 - September 2018**

In WA, immunisation coverage rates for ATSI children have been consistently lower than for non-ATSI children in the two youngest age groups, in data supplied 31 December 2018. WA ATSI immunisation rates were 87.8% for the 12 ≤ 15 month age group, and 82.0% for the 24 ≤ 27 month age group, which was 6% and 9% lower than for non-ATSI children, respectively. However, for children aged 60 ≤ 63 months immunisation coverage was 95.2% for ATSI, compared to 93.5% for non-ATSI children (see Figure 9).

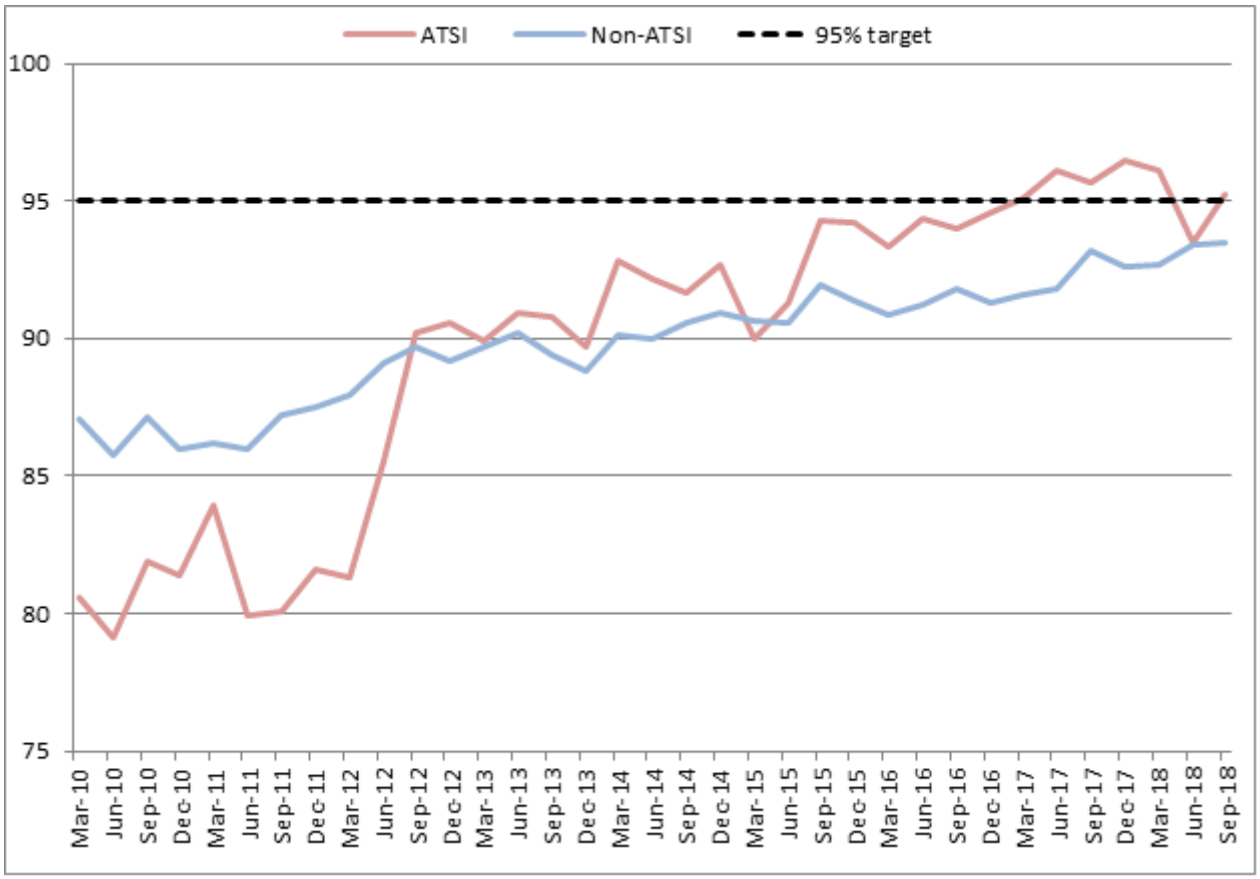

Figure 9 **Percentage of WA children aged 60 ≤ 63 months fully immunised by ATSI status, March 2010 – September 2018**

4.3 Factors contributing towards low immunisation rates

The reasons that some young children are not fully vaccinated for age are multi-factorial. The DoH has identified specific circumstances which result in the delayed or non-vaccination of a child. These circumstances include:

- children whose parents have limited access to immunisation services
- children whose parents have not got around to vaccinating their child
- children whose parents have concerns about vaccine safety and/or the timing of childhood immunisations i.e. 'vaccine hesitant' parents
- children whose parents are vaccine-refusers
- children who may be vulnerable or disadvantaged and therefore have irregular contact with preventive health services such as
    - children in emergency care e.g. in foster care or crisis accommodation
    - children in the care of an adult who is not their parent
    - ATSI children
    - children who are refugees or asylum seekers
    - children in need of protection under the *Children and Community Services Act 2004* (Department of Communities); and

- children of parents/guardians with an income support payment card from the Federal government, such as a Health Care Card, Pension Concession Card, Veterans Affairs Gold or White Card.

Additionally, there are medical reasons why a child may be not be vaccinated and these children are considered to have a 'medical exemption' to vaccination. Medical exemptions to vaccination include persons who:

- had anaphylaxis after a previous dose of a vaccine
- had anaphylaxis after exposure to any component of a vaccine
- have a significant immunocompromise – for live vaccines only
- have natural immunity through prior infection – for hepatitis B, measles, mumps, rubella and chickenpox only.[10]

Persons may have a serious allergy to a specific vaccine, or be immunocompromised due to illness (e.g. leukaemia, cancer, HIV/AIDS) or medical treatments (e.g. high-dose steroids or chemotherapy). Medical exemption from immunisation, however, is rare and as of December 2018, of the 8,944 children in WA aged between 60 ≤ 63 months registered on the AIR, only 24 had an approved medical exemption.[11] Of those, seven were recorded as having a medical contraindication to vaccination (e.g. immunocompromised, anaphylaxis after a previous dose of a vaccine), 18 were recorded as having natural immunity to a VPD, and one child had both a medical contraindication and natural immunity for two different vaccines.

4.4 Need for additional immunisation regulation and promoting equity

Decades of experience from industrialised countries, including Australia, has demonstrated that standard community health initiatives, which promote the benefits of immunisation and provide vaccination reminders to both parents and health care providers, can improve childhood immunisation rates, however these strategies are insufficient to achieve and maintain 95% immunisation coverage in large, diverse populations, for reasons outlined in Section 4.3.

More can be done to reduce the incidence of VPDs in WA, and the government has a responsibility to take measures, beyond those referred to above, to protect individuals and the community from serious infectious disease. Currently, the WA Government is proposing to strengthen immunisation regulations pertaining to child care services and kindergarten programs as a means to mitigate the risk of illness and death from VPDs.

In 2016, the Federal Government initiated a No Jab No Pay policy (see Section 5.2) which excludes families of under-vaccinated children from receiving financial benefits. Because this policy only applies to families who are eligible to receive these Federal benefits, it disproportionately affects those from lower socio-economic groups. In contrast, the WA Government is proposing a policy that is socially equitable and acknowledges the shared responsibility of the whole community for achieving and maintaining higher immunisation rates across the WA community, regardless of a family's financial situation. The proposed policy will apply to all children irrespective of income and means-tested benefits. In this regard, proposed WA regulation will extend immunisation requirements beyond children already covered by the Commonwealth's No Jab No Pay regulations, to also include under-vaccinated children in child

[10] *Immunisation medical exemptions*; Department of Human Services, Commonwealth Government. Available at: https://www.humanservices.gov.au/individuals/enablers/immunisation-medical-exemptions/40531

[11] '*Unpublished data'* from the Australian Immunisation Register; Department of Human Services, Commonwealth Government; accessed 13 February, 2019.

care services who do not qualify for Child Care Subsidy payments because of means-testing protocols.

For children who do not attend child care services, kindergarten programs are usually their first entry point into the school system. In this regard, enrolment into kindergarten programs offer an additional check point, occurring at a critical age for a child to receive the recommended vaccinations on the NIP's childhood schedule (birth to four years). This policy aims to promote the recommendations of the childhood schedule, by ensuring that by the time children reach kindergarten or during the year they turn 4, they should have completed their childhood immunisation schedule.

While under-vaccinated children who fall within a prescribed class of exemption will not be excluded from enrolling in child care services, community kindergartens and schools, before the compulsory education period, under the proposed No Jab No Play policy in WA, the DoH intends to provide effective referral pathways for these families to ensure their children are able to access immunisation services so they can be fully protected through vaccinations.

The key role for government in improving immunisation rates in young children was demonstrated by a request by the Prime Minister in March 2017 that all jurisdictions implement No Jab No Play policies. The proposed WA No Jab No Play policy is fully supported by the WA Premier who has directed the policy is to be expedited with a goal to implement it in time for 2020 kindergarten enrolments, which begin in July 2019.

5 Immunisation in Western Australia

Immunisation services in WA are delivered through government organisations including community health centres, child health clinics, the Central Immunisation Clinic (West Perth), and the Perth Children's Hospital (the Stan Perron Immunisation Centre and the Specialist Immunisation Clinic) as well as General Practice, and non-government organisations including Aboriginal community health services.

The immunisation activities provided by these services are underpinned by the National Immunisation Program (NIP), which was established by the Commonwealth, and the State and Territory governments in 1997 and provides free vaccines to eligible groups of people. The NIP aims to increase national immunisation coverage to reduce the incidence of VPDs in Australia, and activities are coordinated through the National Partnership on Essential Vaccines (NPEV), which is an agreement between the Commonwealth, and the State and Territory governments.

Support for the WA immunisation program comes from a variety of government agencies. At the Commonwealth level, the NIP provides the vaccines while the NPEV prescribes the benchmarks for focussing jurisdictional immunisation initiatives. At a state level, the *WA Immunisation Strategy 2016-2020*[2] aligns local priorities and activities with the objectives of NPEV, as well as prescribes additional strategies for responding to state-specific issues.

Whilst recent amendments to the *Public Health Regulations 2017* and *School Education Regulations 2000* have enhanced the collection and reporting requirements on the immunisation status of children enrolled in child care services, community kindergartens and schools, prior to 2019 no immunisation related requirements existed under the Act and minimal requirements existed under the *School Education Act 1999, Education and Care Services National Law Act 2012* and *Child Care Services Act 2007*. Other Australian jurisdictions have implemented stronger immunisation requirements for children attending early education and pre-compulsory education services, through No Jab No Play (NJNP) type immunisation policies.

5.1 National Partnership on Essential Vaccines

The NPEV was created subject to the provisions of the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) and should be read in conjunction with that Agreement and its Schedules, which provide information in relation to performance reporting and payment arrangements under the IGA FFR.[12] The current agreement expires on 30 June 2021, or on completion of the project, including final performance reporting and processing of final payments against performance benchmarks or project milestones.

This partnership is between the Commonwealth, and the State and Territory governments, and is based on a mutual interest in improving outcomes in vaccination, and the need to work in collaboration to achieve those outcomes. The objective of the NPEV is to protect the Australian public from the spread of VPDs through the cost-effective and efficient delivery of immunisation programs, and is being achieved through the following five performance benchmarks, which all parties have agreed to meet:

1. an increase in vaccination coverage rates for 60 ≤ 63 month olds relative to the baseline (where a State achieves a coverage rate for the year of 95% or higher, it will be deemed to have met the benchmark).
2. an increase in the vaccination coverage rates for ATSI people in at least two of the following three cohorts: 12 ≤ 15 month; 24 ≤ 27 month; and 60 ≤ 63 month, relative to the baseline (where a State achieves a coverage rate for the year of 95% or higher for a particular cohort, it will be deemed to have met the target for that cohort).
3. an increase in the vaccination coverage rate for both adolescent boys and adolescent girls for HPV, relative to the baseline.
4. an increase in vaccination coverage rates for 60 ≤ 63 month olds in four of the ten lowest vaccination coverage SA3 geographical areas, relative to the baseline. States will notify the Commonwealth by August of each year of the four areas to be targeted that year.
5. an annual decrease in the wastage and leakage rate for agreed vaccines, relative to the baseline (where a State achieves a wastage and leakage rate of 5% or lower, it will be deemed to have met the benchmark).

These performance benchmarks are largely being met through activities of the NIP, which was established to improve buying power for vaccines, and introduce consistency to the vaccination schedule and vaccine related activities. The NIP makes vaccines available at no cost to eligible individuals through a range of vaccination providers including community health clinics, child health clinics, Aboriginal medical services (AMS), general practices and aged care facilities. The NIP provides vaccines for eligible individuals against multiple disease groups, ensuring those most at risk are protected.[13]

As an activity of NPEV, the NIP determines the series of immunisations for Australians required at specific age points, from birth through to adulthood, and which are provided for free under this Commonwealth program. If children fall behind in vaccinations, they can undertake an

[12] *National Partnership on Essential Vaccines*; Council on Financial and Federal Relations. Available at: http://www.federalfinancialrelations.gov.au/content/npa/health/national-partnership/essential_vaccines_2017-1.pdf

[13] *National Immunisation Program*; Department of Health, Commonwealth Government. Available at: https://beta.health.gov.au/initiatives-and-programs/national-immunisation-program

approved catch-up schedule which is managed by their immunisation provider in accordance with the Australian Immunisation Handbook.[14]

While the NIP provides a nationally consistent approach to the provision of vaccines, in WA the DoH provides additional free vaccinations for a small number of programs that are not part of the NIP. These are primarily for small groups of at risk people, where the scale is not large enough to apply for inclusion in the NIP, or where rapid responses to increasing rates of diseases are needed. These programs include post-exposure rabies prophylaxis, meningococcal vaccination catch-up for children aged 13 months to four years old, vaccination of contacts of cases, and vaccination of individuals at high risk of hepatitis A and B acquisition.

5.2 Commonwealth program: No Jab No Pay

Established in January 2016, No Jab, No Pay is a Commonwealth program that aims to increase immunisation rates among children aged under five years. This program requires that only parents of children who are fully immunised according to the NIP Schedule, are on a recognised catch-up schedule, or have an approved medical exemption, can receive the Child Care Subsidy.[15] The relevant vaccinations are those under the NIP Schedule for administration before age five; to qualify for payments the vaccinations must be recorded on the AIR.[15]

Significantly, this program eliminated vaccination objection on non-medical grounds as a valid exemption from immunisation requirements. The impact of this legislation on catch-up vaccination for the 2nd dose of measles-mumps-rubella vaccine (MMR2) in children was analysed using AIR data. Results suggested that of the approximately 110,000 children and adolescents who received the MMR2 catch-up following the No Jab No Pay legislation, many were likely to have received it due to the legislation coming into effect.[16]

5.3 WA Immunisation Strategy 2016-2020

The *WA Immunisation Strategy 2016-2020* ('the Strategy') outlines a comprehensive framework for enhancing immunisation program service delivery in WA, within the context of national and state policy, and in alignment with the *National Immunisation Strategy for Australia 2013-2018.*[17] The Strategy is designed to serve as a road map to strengthen programs and partnerships that improve capacity to protect the health of WA communities through immunisation.[18]

The overarching aims of the Strategy are to:

Aim 1: achieve or sustain high levels of immunisation coverage across WA, with equity in access to vaccines and immunisation services, including communities that have special needs because of remote location or socio-cultural or economic factors

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[14] *Australian Immunisation Handbook*; Department of Health, Commonwealth Government. Available at: https://immunisationhandbook.health.gov.au/

[15] *Immunisation requirements*; Department of Human Services, Commonwealth Government; February 2019. Available at: https://www.humanservices.gov.au/individuals/services/centrelink/child-care-subsidy/who-can-get-it/immunisation-requirements

[16] Hull, B., Hendry, A., Dey, A., & Beard, F. *Adolescent and child vaccination catch-up activity post 'No Jab No Play', abstract from 16th National Immunisation Conference 2018.*

[17] *National Immunisation Strategy for Australia 2013-2018;* Department of Health, Commonwealth of Australia. Available at: https://beta.health.gov.au/resources/publications/national-immunisation-strategy-for-australia-2013-2018

[18] *Western Australian Immunisation Strategy*, Department of Health, Government of Western Australia. Available at: https://ww2.health.wa.gov.au/Articles/F_I/Immunisation-strategy-2016

Aim 2: provide safe, high-quality immunisation services that instil public confidence and adherence to vaccine recommendations

Aim 3: ensure cost-effective use of vaccines and efficient immunisation services

Aim 4: have timely and effective monitoring of immunisation coverage and surveillance of VPDs and the occurrence of adverse events following immunisation (AEFI)

Aim 5: have clear communication with the public and providers about VPDs, vaccines and AEFI.

The current Strategy articulates ten objectives, which outline a comprehensive framework for enhancing all aspects of immunisation program service delivery in WA. The specific objectives are:

Objective 1: increase vaccination coverage for young children

Objective 2: increase vaccination coverage for Aboriginal people

Objective 3: increase vaccination coverage for adolescents

Objective 4: increase vaccination coverage for adults

Objective 5: improve support for immunisation providers

Objective 6: increase immunisation workforce capacity

Objective 7: improve vaccine-preventable diseases surveillance and outbreak response

Objective 8: improve vaccine safety monitoring

Objective 9: improve communication with stakeholders and the community

Objective 10: encourage and support applied immunisation research.

Implementation of the Strategy is guided by the WAIS Implementation Steering Committee, which includes membership from the Australian Medical Association, Royal College of General Practice, Telethon Kids Institute, and government agencies.

5.4 Immunisation regulation in WA

5.4.1 Prior to 2019

Prior to 2019, no immunisation related regulations had been introduced under the *Public Health Act 2016*. Under the *School Education Act 1999*, there was one existing immunisation-related requirement. Specifically:

- Division 2, 16(1):

  A person who wishes to make an application for enrolment at a school is to provide the following information to the extent that he or she is asked to do so –

  (f) the vaccination status of the enrolee.

Similarly, the *Education and Care Services National Regulations 2012* and *Child Care Services (Child Care) Regulations 2006* required services to keep the immunisation status of a child enrolled at a service.

The *School Education Act 1999* also contains a provision to support the principal to limit or prevent the spread of an infectious disease. Specifically:

- Division 3, 27(1):

  The principal of a school may require that a student –

  (a) not attend the school; or
  (b) not participate in an educational programme of the school,

  during any day on which the student or any other student at the school is suffering from a medical condition to which this section applies.

5.4.2 From 2019 onwards

As of 1 January 2019, new Regulations came into effect under the Act that strengthen immunisation requirements around the collection and reporting of immunisation information by child care services, community kindergartens and schools (see Table 4). These regulations followed a RIA process, whereby a Preliminary Impact Assessment was undertaken and deemed compliant by the Better Regulation Unit (Department of Treasury), and consultation was undertaken.

Table 4 Immunisation related regulations under the *Public Health Regulations 2017,* in effect 1 January 2019

Regulations 10B – 10G	
10B.	If a child is being enrolled at a child care service, community kindergarten or school, the responsible person for the child is required to give to the person in charge of the child care service, community kindergarten or school the immunisation status of the child as recorded on the child's current immunisation status certificate.
10C.	The CHO may direct the person in charge of a child care service, community kindergarten or school to give to the CHO a report, in an approved form, in respect of the immunisation status of a child or children enrolled at the school.
10D.	The CHO may direct the person in charge of a child care service, community kindergarten or school to give to the CHO a report, in an approved form, in respect of a child enrolled at the child care service, community kindergarten or school who has, or who is reasonably believed to have, contracted a VPD.
10E.	The CHO may direct the person in charge of a child care service, community kindergarten or school not to permit any child to attend the facility who does not have immunity against a VPD; in this instance, the person in charge is required to write to the child's parent/guardian specifying the VPD that the child does not have immunity from, and the period of time during which the child must not attend, as advised by the CHO
10F.	The CHO may direct the person in charge of a school to close the whole, or a part, of the school if the CHO considers it reasonably necessary to limit or prevent the spread of a VPD.
10G.	If the CHO requests from a person in charge of a child care service, community kindergarten or school to give a report to the CHO in respect of a child who has not, or children who have not, been immunised against a VPD, the CHO may request further information necessary to assist in preventing, controlling and abating the public health risk that might foreseeably arise from the child or children not being immunised against the VPD e.g. name and other identifying information of the child; name and contact details of the responsible person of the child.

To support these changes, complementary amendments were also made to the *School Education Regulations 2000* (WA) to require schools to keep the vaccination status of an

enrolee on the school's enrolment register, while amendments to the *Child Care Services (Child Care) Regulations 2006* (WA) are planned to come at a later stage.

6 Immunisation regulation in other jurisdictions: No Jab No Play

Other Australian jurisdictions have introduced legislation to enact a NJNP immunisation type policy. Since 2016, NJNP type legislation has been implemented in Queensland, Victoria and New South Wales, with each state implementing variable policies across the early childhood education and care services (non-compulsory services). New South Wales' and Victoria's policies broadly require that children have an 'up to date' immunisation status according to their AIR Immunisation History Statement or an approved exemption, as a condition of enrolment into early childhood education and care services. In Victoria, enrolment can commence for a group of children who meet a set criteria of 'experiencing vulnerability and disadvantage'. In Queensland, the legislation empowers services to refuse enrolment/attendance, cancel an enrolment/attendance or conditionally accept an enrolment/attendance if a child's immunisation status is 'not up to date'. Table 5 shows the main features of the NJNP policies in these states.

Table 5 Features of the No Jab No Play policies implemented in other Australian jurisdictions

Features	Queensland[19]	Victoria[20]	New South Wales[21]
Policy	Under the *Public Health Act 2005* (QLD), early childhood education and care services can refuse, cancel or conditionally accept enrolment/ attendance of children who are 'not up to date' with their scheduled vaccinations. Services who act honestly in making decisions on the enrolment or attendance of children based on their immunisation status are not liable either civilly or criminally or under an administrative process.	Under the *Public Health and Wellbeing Act 2008* (VIC), all children are required to be fully vaccinated for age to be enrolled in early childhood education and care services.	Under the *Public Health Act 2010* (NSW), directors of early childhood education and care services cannot enrol children unless an approved form has been provided indicating that the child is fully immunised for their age OR has a medical contraindication to vaccination/natural immunity OR is on a recognised catch-up schedule.
Introduced	January 2016	January 2016	January 2018
Early childhood education and care services	- Child care services - Kindergartens The legislation only applies to early education and care services	- Child care services including long day care, family day care, occasional care - Kindergartens	Any service providing education and care to children on a regular basis as defined under the *Children (Education and Care Services National*

[19] *Vaccination legislation for ECEC services;* Queensland Health, Queensland Government. Available at: https://www.health.qld.gov.au/public-health/schools/immunisation/legislation

[20] *No jab, no play*; Department of Health & Human Services, State Government of Victoria. Available at: https://www2.health.vic.gov.au/public-health/immunisation/vaccination-children/no-jab-no-play

[21] *Strengthening vaccination requirement for child care*; NSW Health, NSW State Government. Available at: https://www.health.nsw.gov.au/immunisation/pages/vaccination_enrolment.aspx

Features	Queensland[19]	Victoria[20]	New South Wales[21]
	approved under the *Education and Care Services National Law (Queensland) 2011* or the *Queensland Education and Care Services Act 2013*. Unregulated services are not covered.	Does not include services for school-age children such as outside school hours care and vacation care programs, nor to casual occasional care such as crèches.	*Law Application) Act 2010*, including long day care, family day care, occasional care and preschool (the year before kindergarten). Does not include services providing care on an ad hoc, temporary or casual basis or children enrolled in formal schooling e.g. attending outside school hours care.
Provision of an immunisation history Certificate	Parents may be asked to provide an immunisation history statement when enrolling their child. This can be the AIR Immunisation History statement or a letter from a recognised immunisation provider.	A current AIR Immunisation History Statement must be provided that indicates the child is age appropriately immunised to have an enrolment confirmed.	A current AIR Immunisation History Statement must be provided that indicates the child is age appropriately immunised to have an enrolment confirmed.
Exemptions	- Children with a medical exemption to vaccination. - Children on an approved catch-up schedule.	- Children with a medical exemption to vaccination. - Children eligible for the 16 week grace period.	- Children with a medical exemption to vaccination or natural immunity (upon provision of an AIR Immunisation Medical Exemption Form). - Children on an approved catch-up schedule (upon presentation of an AIR Immunisation History Form). - Children eligible for the 12 week grace period.
Grace period	At their discretion, a service can place a condition on the child's enrolment or attendance for either a specific period or particular days, until a current immunisation history statement is provided.	- 16 week grace period for vulnerable and/or disadvantaged. - Staff at child care services and kindergartens determine if a child is vulnerable and/or disadvantaged by reviewing an eligibility criteria checklist. - Eligibility for the grace period allows the child to continue attending child care/kindergarten while the family receives assistance from the child care service/kindergarten* to get the child's	- 12 week grace period for vulnerable and/or disadvantaged children and ATSI children. - Period allows for child to be caught up with vaccinations. - The required immunisation history statement or other approved form should be provided within the 12 weeks from date of enrolment into the child care facility.

Features	Queensland[19]	Victoria[20]	New South Wales[21]
		immunisations up to date. *Within the 16 weeks, staff at child care services and kindergartens must take reasonable steps to obtain the required immunisation history statement. If a valid Statement is not provided by the end of the 16 week period, the child can continue to attend.	

While improved immunisation coverage has been experienced in the States which have implemented these measures, the outcomes of these policies are unable to be measured in isolation from ongoing changes in overarching national immunisation policies (the Australian Government's No Jab No Pay policy) and other program activities in these jurisdictions.

Queensland

Queensland's childhood immunisation rates have improved in recent years, as shown by the proportion of children fully vaccinated, by quarter and age group in Figure 10.

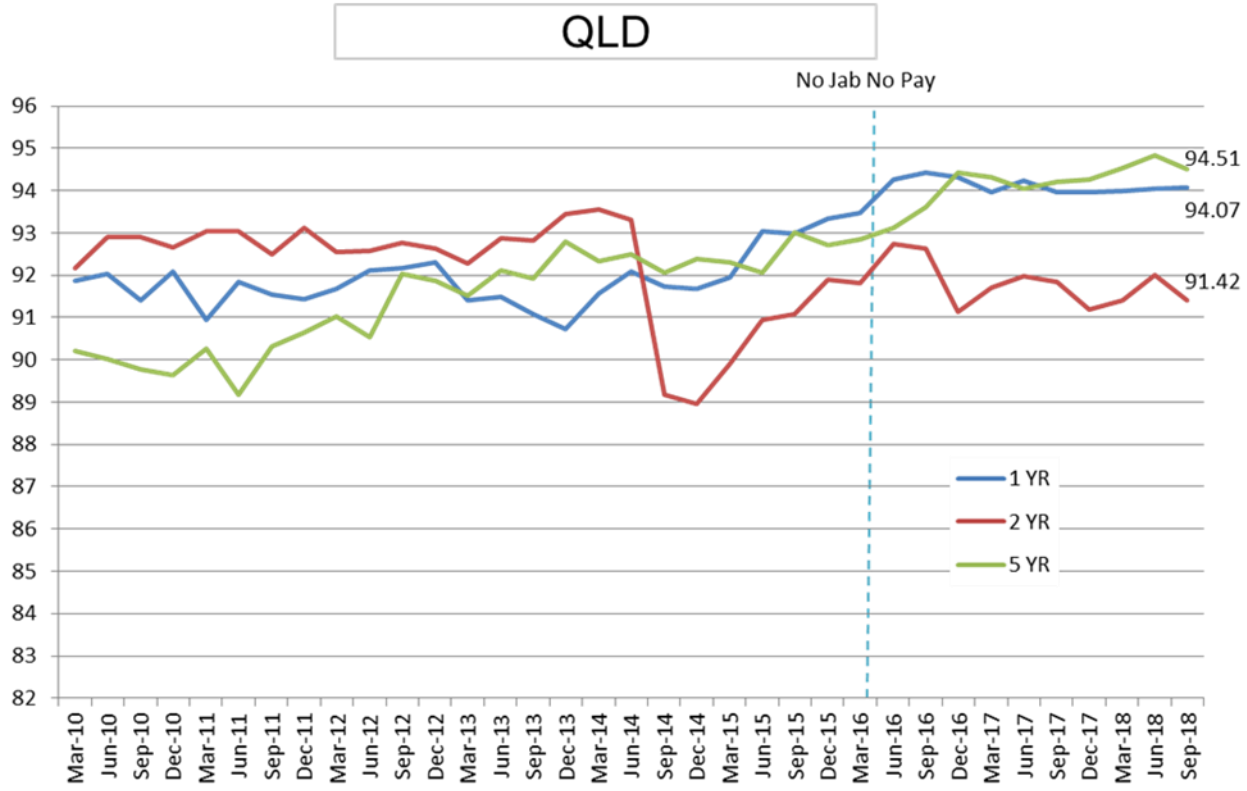

Figure 10 **Immunisation rates for children aged one, two and five years in Queensland, March 2010 – September 2018**[22]

[22] Source: Australian Immunisation Register Quarterly Data

Whilst it is not possible to attribute this increase in coverage to any one initiative alone, Queensland Health (QH) considers that collectively No Jab No Pay, No Jab No Play and Immunise to 95 (which is an initiative to follow-up children overdue for immunisation) have all contributed to higher immunisation rates among children aged 5 years and under.

Children identified as vulnerable and/or disadvantaged is not a prescribed exemption category under the Queensland NJNP legislation. Instead, the legislation provides services the flexibility to accommodate these children whose immunisation status may be unknown or 'not up to' date. The Queensland Government recognises the importance of both immunisation and high quality education and care for all children, and it is not the intention of the legislation to disadvantage vulnerable and/or disadvantaged children.[23]

No major issues were encountered during implementation of the Queensland NJNP policy, which QH largely attributes to the collaborative working relationship between QH and Department of Education. At the time of the legislation's development, QH worked very closely with representatives from the Department of Education's Early Childhood Division and the early childhood sector's peak bodies on the implementation of the legislation. This included the development of a comprehensive resource handbook for early education and care services.[23] Currently in its third year, QH reports there are no current operational issues.

Victoria

Since the implementation of Victoria's NJNP legislation in addition to the Commonwealth's No Jab No Pay in early 2016, an increase in immunisation rates among children under five years has been experienced, as shown by the proportion of children fully vaccinated, by quarter and age group in Figure 11.

[23] *Queensland Vaccination Legislation – A Handbook for Early Childhood Education and Care Services*; Queensland Health, Queensland Government. Available at: https://www.health.qld.gov.au/__data/assets/pdf_file/0017/440351/qld-vac-leg.pdf

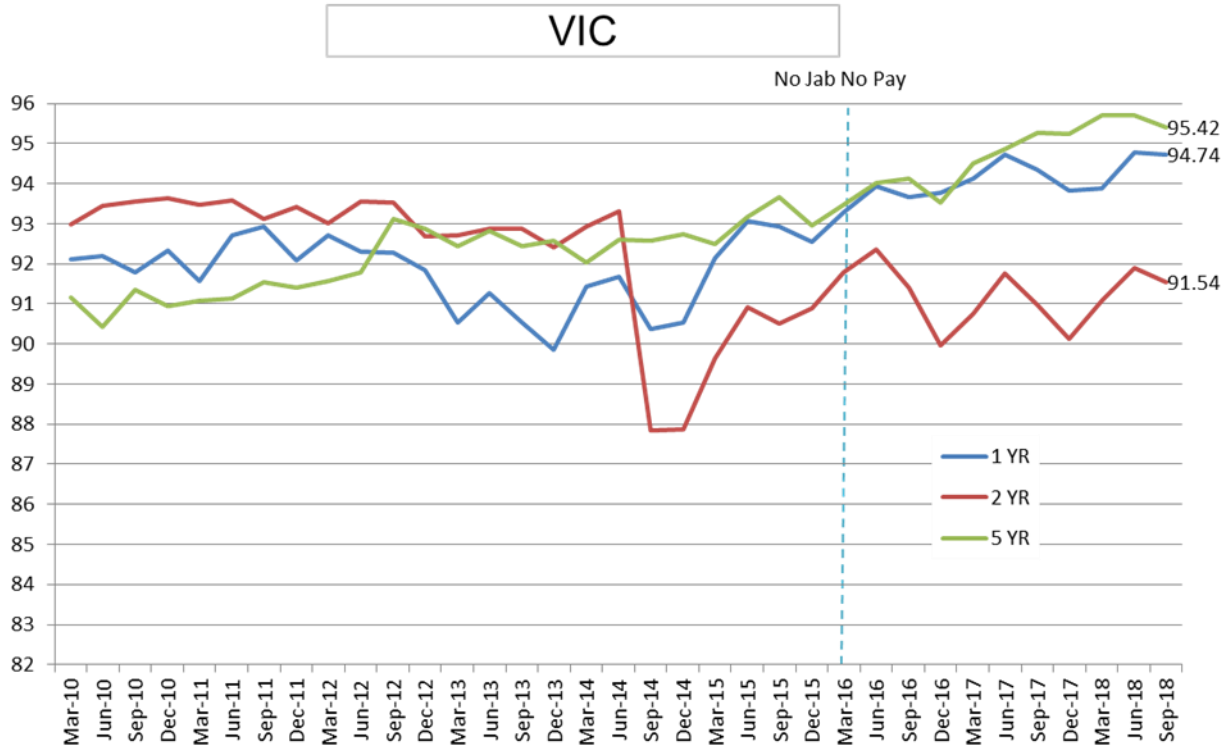

Figure 11 **Immunisation rates for children aged one, two and five years in Victoria, March 2010 – September 2018**[24]

Implementation of NJNP has experienced some operational issues and further amendments to the legislation have subsequently been made. These amendments included limiting evidence of immunisation status to the AIR Immunisation History Statement, and requiring parents to maintain a current copy of this statement at the service for the duration of their child's enrolment.

The first of these amendments arose as a result of a medical practitioner who assisted vaccine refuser parents. The medical practitioner was found to have provided numerous medical certificates fraudulently stating a child could not be vaccinated on medical grounds and, following investigation, the practitioner was disbarred from practicing medicine by the Australian Health Practitioner Regulation Agency's Medical Board. As a result of this malpractice, Victoria's NJNP legislation was amended in February 2018 to only allow an AIR Immunisation History Statement as the valid documentation to be provided to early education and child care services to confirm a child's eligibility for enrolment.

There has also been a concern that exploitation of the grace period can occur. The grace period in Victoria allows 16 weeks for children identified as vulnerable and/or disadvantaged to catch-up on their immunisations. Anecdotally, a small number of vaccine refusers who qualify for the grace period (usually as holders of a Health Care Card, denoting low income) have enrolled their children under the grace period with no apparent intention to vaccinate. This issue will be examined in a review of the legislation due to be tabled in the Victorian Parliament in 2020.

In November 2018, regulations were introduced to require the parents/guardians of children attending early education and care services to regularly provide the service with evidence that their child remains up to date with immunisations while attending the service. Early childhood

[24] Source: Australian Immunisation Register Quarterly Data

services are required to take reasonable steps, for example by requesting immunisation certificates from parents/guardians twice per year, with the regulations specifying an interval of no greater than seven months between provision of current AIR Immunisation History Statements. It is important to note that children of parents/guardians who do not meet this requirement are not excluded from attending the early childhood service. The intent of this amendment is to provide an additional reminder mechanism for parents to maintain their child's immunisations.

Victoria has also reported a misconception that the NJNP legislation is designed to reduce the incidence of VPDs occurring among children attending early childhood education and care facilities, thereby making these environments safer. However, there are existing measures in place for preventing or limiting the spread of VPDs at these services, and the intent of the NJNP legislation is to encourage the immunisation of children while still allowing vulnerable and/or disadvantaged children who may also be under-vaccinated, access to the lifelong benefits of early childhood education and care, and provide their families with the support of the service to become vaccinated.

With regards to monitoring the impact of NJNP legislation, Victoria has reported that metrics for monitoring purposes were not fully considered at the time of the introduction of the legislation. For example, initially there was no provision for the central collection of information about children enrolled under the grace period (i.e. how many families sought to utilise the grace period to enrol, and under what eligibility criteria children were enrolled under the grace period). For WA, the evaluation including monitoring of all aspects of the impact of the proposed legislation is outlined in Section 11.

In Victoria, there was also confusion regarding whether children are to be un-enrolled from the early education and care service should the child remain under-vaccinated at the expiry of the 16 week grace period. The Victorian legislation is deliberately designed to apply authority only at the point of enrolment, and there is no mechanism to compel the un-enrolment of a child in an effort to avoid significant disruption for vulnerable and disadvantaged children.

New South Wales

Since 2014, an increase in immunisation rates among children under five has been experienced in NSW, as shown by the proportion of children fully vaccinated, by quarter and age group in Figure 12. These improved immunisation rates have occurred in the broader context of statewide immunisation promotion initiatives, as well as other program and policy changes e.g. No Jab No Pay.

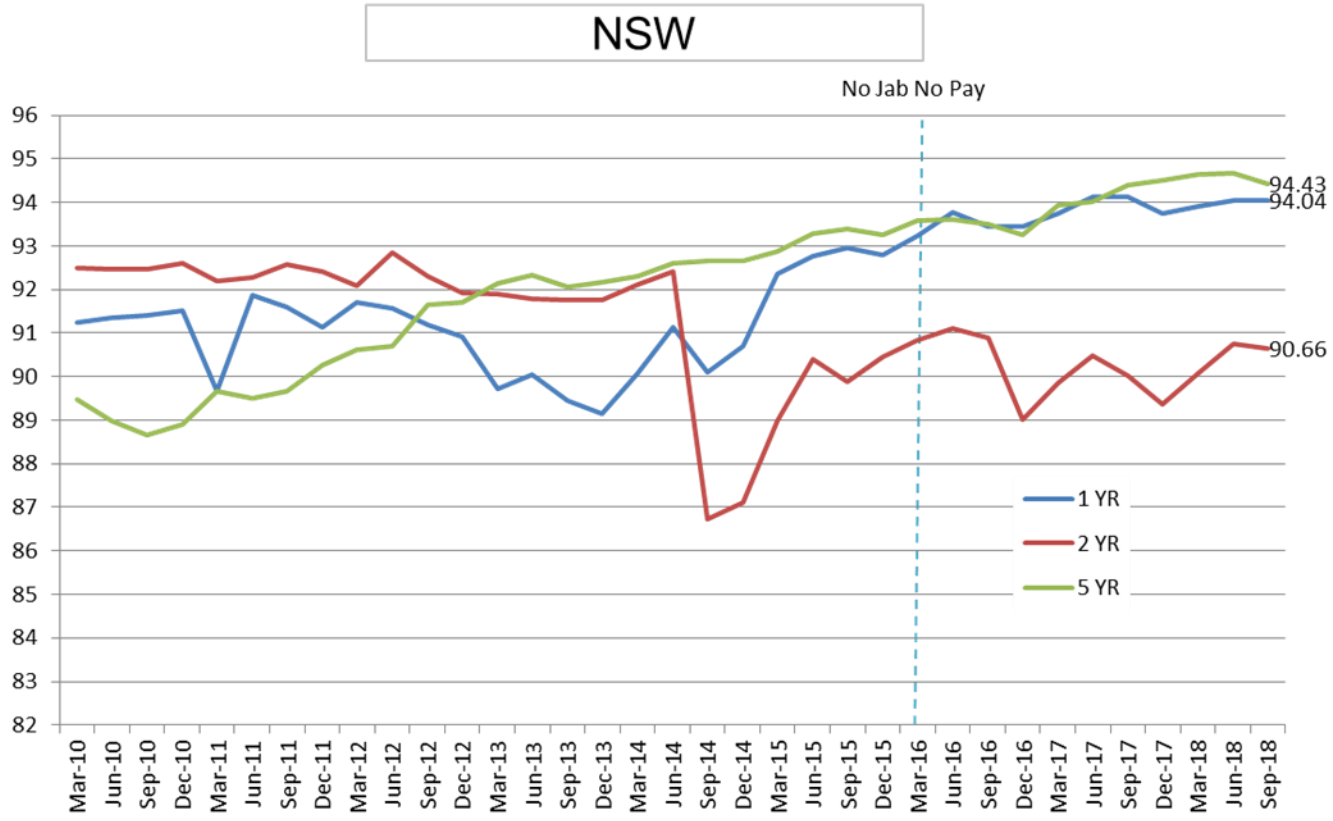

Figure 12 **Immunisation rates for children aged one, two and five years in New South Wales, March 2010 – September 2018**[25]

NSW legislation on vaccination enrolment requirements in early education and care services has been in place since the 1990s. In 2014, these requirements were strengthened to prevent the enrolment of children unless they were fully vaccinated for age (as recorded on the AIR), on a recognised catch-up schedule, had a registered conscientious objection, or had a medical exemption. Four years later, NSW removed conscientious objection to vaccination as an exemption to this requirement under a NJNP policy consistent with the Commonwealth's removal of this exemption under their No Jab, No Pay program.

There are current discussions around the potential need for further amendments to the *Public Health Act 2010* (NSW) and regulation in 2019 to align NJNP exemptions with those prescribed under the Commonwealth Secretary's authority under No Jab, No Pay.

7 Proposals for strengthening immunisation regulation

The WA Government is currently investigating the introduction of additional legislation intended to increase childhood immunisation rates, for which there are two options.

7.1 Option A: Fully implement recently introduced regulations

Option A proposes to fully implement recently introduced regulations requiring the collection and reporting of immunisation information by child care services, community kindergartens and schools at the time of enrolment, and monitor any impact before changing the status quo.

[25] Source: Australian Immunisation Register Quarterly Data

Recent amendments to the *Public Health Regulations 2017* introduced new requirements (effective 1 January 2019) which mandate universal immunisation records checks for children when they enrol into a child care service, community kindergarten and school, and allow the Chief Health Officer (CHO) to request reports on the immunisation status of any child or children enrolled.[26] Families of under-vaccinated children who are reported to the DoH under the regulations will be offered assistance with obtaining vaccinations but there is no exclusion of these children from attending or enrolling into child care, community kindergarten or school, before the child's compulsory education period.

These regulations also provide a framework for action to be taken to limit and prevent the spread of an outbreak of a VPD in a child care service, community kindergarten and school.

Referral pathways provided for under-vaccinated children

Significantly, the regulations allow for reporting of under-vaccinated children to the CHO, as a means to provide these families with referral to accessible immunisation services. Currently records in the AIR often do not have up-to-date contact details for children and their parents/guardians. While the DoH can determine which children are under-vaccinated from AIR data, there is no consistently reliable way to contact these families to provide appropriate referral to immunisation services. Under Regulations 10C and 10G, the DoH will make annual requests for reports of all under-vaccinated children enrolled in child care, community kindergartens and schools (pre-kindergarten and kindergarten programs, and pre-primary year only), with the first request to be undertaken in March 2019. All persons in charge of child care services, community kindergartens and schools will be asked to provide the following details with regards to under-vaccinated children enrolled:

- **child's details**, including name, date of birth, gender, ATSI status, enrolment type and immunisation status
- **parent's/guardian's details**, including name, address, contact phone number and email address
- **child care service/kindergarten/school details**, including name, address, contact phone number, contact person.

When this information is reported to the DoH, CDCD will undertake to contact these families and provide appropriate referral pathways to local vaccination services, as a means to ensure the child can be caught up for overdue vaccinations. Table 6 outlines the strategy to contact these families. Under the regulations now in effect in WA, there is no exclusion of children who are under-vaccinated from child care services or kindergarten programs.

Table 6 Proposed strategy to provide referral pathways to families in the metropolitan area and regions

When a child is reported to CDCD as being under-vaccinated for age:	
1	CDCD to check the accuracy of AIR data against reports of under-vaccinated children; CDCD to update the AIR data, if required.
2	If a child is under-vaccinated for age ►CDCD to **email** parents to provide a referral pathway for local vaccination services, as appropriate e.g. community health clinics, general practice,

[26] *Immunisation enrolment requirements for child care services, kindergarten and schools;* Department of Health, Government of Western Australia. Available at: https://ww2.health.wa.gov.au/immunisationenrolment

	AMS.
3	After 1st month, if child is still under-vaccinated ► CDCD to **SMS** parents.
4	After 2nd month, if child is still under-vaccinated ►CDCD to provide child's details to: - Child and Adolescent Community Health (CACH) - Metropolitan Communicable Disease Control (MCDC), or - Regional Public Health Units.
5	**METRO**: CACH and MCDC ► to contact parents/guardians and provide referral pathways to local general practice, AMS, community health clinics or other relevant immunisation services. **REGIONS**: Public Health Unit nursing staff to contact parents/guardians and make referrals to local general practice, AMS, community health clinics or other relevant immunisation services.

7.1.1 Advantages (benefits)

- most children enrolled in child care are already fully vaccinated under the Commonwealth's No Jab No Pay policy which requires the child to be 'up-to-date' on their vaccinations for Federal benefit payments to continue.
- should deliver a net benefit by improving childhood immunisation rates without adversely affecting access to child care services or kindergarten programs.
- provides a framework for action the DoH can take to limit or prevent the spread of VPDs.

7.1.2 Disadvantages (costs)

- there are administrative costs for persons in charge of child care services, community kindergartens and schools, associated with collecting each child's AIR Immunisation History Statement upon enrolment (although most children in child care are already meeting immunisation requirements as a result of the Commonwealth's No Jab No Pay policy which requires the child to be up-to-date on their vaccinations for Federal benefit payments to continue).
- there are administrative costs for persons in charge of child care services, community kindergartens and schools, associated with reporting the immunisation status of under-vaccinated children to the DoH.

7.1.3 Impacts

- under-vaccinated children can continue to enrol in and attend child care services and kindergarten programs
- allows for the DoH to request immunisation status information on any child or children enrolled which in turn allows WA Health to contact the parents/guardians of under-vaccinated children and offer support to access local immunisation services, in particular for children identified as vulnerable and/or disadvantaged.

7.1.4 Risks

- WA's immunisation rate may remain below the national average, unless stronger action is taken to encourage families to immunise their children.
- the slightly higher risk of illness and death from VPDs may remain for under-vaccinated children.

7.2 Option B: Amend the *Public Health Act 2016*

Option B proposes to amend the *Public Health Act 2016* (WA) ('the Act') to require, with rare exception, children in WA to be fully vaccinated for age as a condition of enrolment into child care services, community kindergartens and schools, before the compulsory education period.

This option follows a direction from the WA Premier to implement an immunisation policy with the same underlying policy objectives to those already implemented in Victoria and New South Wales (see Section 6). This proposed WA No Jab No Play policy (see Section 3.1) aims to further strengthen immunisation requirements for children enrolling into child care services, and kindergarten programs, and is supported by the Australian Medical Association of WA.

This proposed legislation would also operate in conjunction with the *Public Health Regulations 2017*[27] immunisation requirements under the outlined in Section 7.1, and amendments to the *School Education Act 1999* would also be required to achieve alignment with these requirements within the *Public Health Act 2016*.

The proposed immunisation requirements will apply to children enrolling in a child care service (other than a child care service that operates on a temporary, casual or ad hoc basis). Requirements will also apply to enrolments in a pre-kindergarten program and kindergarten program in a government school, non-government school, and community kindergarten ('kindergarten programs').

7.2.1 Advantages (benefits)

- reinforces the shared responsibility of the whole community for achieving and maintaining higher immunisation rates (herd immunity) in order to better protect those who can't be vaccinated, including those who are too young to be vaccinated and those who are unable to be vaccinated for medical reasons, including pregnant women, children with immune disorders and some cancer patients.
- promotes the recommendations of the NIP childhood schedule, by ensuring that by the time children reach kindergarten or during the year they turn 4, they have completed their childhood immunisation schedule.
- exemptions will apply for under-vaccinated children who are identified as being vulnerable and/or disadvantaged, to avoid compromising their access to early childhood education.
- excludes only a small number of children from child care services and kindergarten programs. Those excluded would likely be children of parents who are vaccine-refusers who account for <2% of all families in WA (~1.34%[28]).
- higher immunisation rates in children should translate to reduced risk of VPD within child care services, kindergarten programs and the community.

7.2.2 Disadvantages (costs)

- denial of enrolment into child care services and kindergarten programs may not be in the best interests of children of vaccine-refusers parents because these children may be at greater risk of long-term adverse consequences to healthy development and academic achievement.

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[27] *Public Health Regulations 2017*, Western Australian Legislation. Available at: https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s49088.html

[28] *Australian Immunisation Register – National vaccine objection (conscientious objection) data*; Department of Human Services; Commonwealth Government, 2016.

- parents of excluded children will need to consider alternative care options for their child, such as reducing parental working hours to stay at home and care for their child.
- persons in charge of child care services and kindergarten programs would be required to ensure that a child's current AIR Immunisation History Statement is 'up to date', as part of the enrolment process.
- there will be an increased administrative burden on the DoH to monitor and enforce the exclusion of under-vaccinated children and address ongoing concerns of parents and child care staff.

7.2.3 Impacts

- contributes towards the achievement of NPEV benchmarks 1, 2 and 4 (see Section 5.1):
  1) increase in vaccination coverage rates for children aged 60 ≤ 63 months;
  2) increase in vaccination coverage rates for ATSI people in two age cohorts; and
  3) increase in vaccination coverage rates for children aged 60 ≤ 63 months in low coverage geographical areas.
- aligns with Aim 1 and Objectives 1 and 2 of the WA Immunisation Strategy (see Section 5.3)
- provides consistency in immunisation requirements for children attending child care services and kindergarten programs, as it applies to all children and not only those affected by Federal No Jab No Pay policy.
- provides incentive for parents to ensure their child is fully immunised.
- targets a point in time when a child is most vulnerable to infectious diseases:
  - many children first enter child care services and kindergarten programs at a time when their immune systems are still developing.
  - the way that children interact in early education and care settings means that there is the potential for VPDs to spread in that setting.
  - children (particularly younger children) will have close physical contact with other children and carers through regular daily activities and play; they often put objects in their mouths; and they may not always cover their coughs or sneezes.[29]
- CHO has discretion to provide an alternative immunisation certificate for any child where the CHO is satisfied that special circumstances exist and despite those circumstances the child would otherwise be age appropriately immunised.
- exclusion of under-vaccinated children from early learning services is not supported by the Royal Australasian College of Physicians.[30]
- this approach is supported by the Australian Medical Association of WA.
- vaccine-refuser parents are unlikely to change their beliefs and practices in response to increased government regulation so their children will remain unprotected.

7.2.4 Risks

- that the changes might have limited impact on immunisation rates in WA, given small increases in immunisation rates that have been observed following the implementation of

[29] *Staying Healthy: Preventing infectious diseases in early childhood education and care services, 5th Ed.*, 2012, National Health and Medical Research Council, Commonwealth Government. Available at: https://nhmrc.gov.au/about-us/publications/staying-healthy-preventing-infectious-diseases-early-childhood-education-and-care-services

[30] As an alternative to NJNP legislation, the RACP recommends making full documentation of immunisation status compulsory for each new education enrolment (not just the first enrolment) in all Australian jurisdictions. This is being addressed by Part 1 of WA's NJNP policy.

No Jab No Play policies in the other jurisdictions (~1.2% overall increase; see Section 6 for immunisation rates for Queensland Victoria and New South Wales across recent years).[31]

Options - Guiding Questions for Consultation

- ► Which Option do you support?
- ► If you support Option A or B, why is this your preferred Option?
- ► If you support Option A or B, can you identify any additional advantages (benefits) or disadvantages (costs) for your preferred Option?
- ► Are there other options you would suggest and why? Please provide supporting evidence.

[31] *Immunisation coverage rates for all children;* Department of Health, Commonwealth Government; accessed 3 December 2012 at: https://beta.health.gov.au/health-topics/immunisation/childhood-immunisation-coverage/immunisation-coverage-rates-for-all-children

8 Option B: Proposed legislative changes for Western Australia

The WA Government wants the importance of immunisation to be further promoted within the WA community, and in September 2017, the Premier provided direction to implement an immunisation policy with the same underlying policy objectives to those already implemented in Victoria and New South Wales (see Section 6). Option B will address this direction by introducing immunisation enrolment requirements for non-compulsory early education and care.

Seven Proposals make up the key components of Option B and are discussed in further detail in this Section, including their anticipated impacts (advantages and disadvantages) to the early education and care industry, families, and the State Government (including DoH, DoE and DoC). This public consultation is seeking stakeholder comment on these Proposals, as well as any additional proposals that should be considered, and the consultation process is supported by the Guiding Questions listed under the Proposals. The Proposals are as follows:

Proposal 1 – Require, with rare exception, a child's immunisation status to be 'up to date' as a condition of enrolment into child care services and kindergarten programs

Proposal 2 – In specified circumstances, allow for documentation other than a child's AIR Immunisation History Statement to be used to satisfy immunisation requirements for enrolment into child care services and kindergarten programs

Proposal 3 – Prescribe the categories of children for which exemptions to immunisation requirements for enrolment into child care services and kindergarten programs apply

Proposal 4 – Enable updated information about a child's immunisation status to be provided at times other than enrolment

Proposal 5 – Offences for which penalties may be issued

Proposal 6 – Minor technical amendments to the *Public Health Act 2016*

Proposal 7 – Consequential amendments to other legislation

8.1 Proposal 1 – Require, with rare exception, a child's immunisation status to be 'up to date' as a condition of enrolment into child care services and kindergarten programs

Objective

To improve immunisation coverage among children in child care services, community kindergartens and schools, before the compulsory education period, by restricting enrolment to children who are fully vaccinated for age.

Proposal

No child will be permitted to be enrolled in:

i. a 'child care service' as defined under s 4 of the *Public Health Act 2016*; or
ii. a 'community kindergarten' registered under the *School Education Act 1999* Part 5; or
iii. a school, before the child's compulsory education period

unless that child's AIR Immunisation History Statement shows that the child has an 'up to date' immunisation status, or the child is following an immunisation catch-up schedule, which is managed by an immunisation provider in accordance with the Australian Immunisation Handbook. An AIR Immunisation History Statement is an extract of a child's AIR record and it will show that a child is 'up to date' if they are age-appropriately immunised in accordance with the NIP Schedule. The AIR Immunisation History Statement is to have been issued not more than two months before the date of the application for enrolment of the child, as prescribed in regulations.

Children who have a registered medical contraindication or natural immunity to a particular vaccination under section 9(c) of the *Australian Immunisation Register Act 2015* (Cth) are recorded as 'up to date' on the AIR Immunisation History Statement.

Child care services and kindergarten programs are non-compulsory years of early education and care. All child care services, community kindergartens and schools (applicable to kindergarten program years only) will therefore only be able to enrol a child who:

(a) is up to date with vaccinations;
(b) is undertaking an approved catch-up schedule;
(c) has an approved medical exemption recorded on the AIR; or
(d) is an exempt child as specified under Proposal 3.

Under the proposed legislation it will be an offence for a person in charge of a child care service community kindergarten or school, before the compulsory education period, to fail to comply with this immunisation enrolment requirement, with a penalty fine of $10,000.

Children undertaking an approved catch-up schedule have an immunisation status on their AIR record as 'not up to date'. Similar to the exempt children described under Proposal 3 (see Section 8.3), these children will still be permitted to enrol, however, they will need to inform the child care service, community kindergarten or school they are undertaking an approved catch-up schedule under the guidance of an immunisation provider and in accordance with the Australian Immunisation Handbook. An approved catch-up schedule allows six months for the individual to catch-up on outstanding vaccinations, must be recorded in the individual's AIR record by the immunisation provider, and can only be recorded once on a child's AIR immunisation history.

Similar to children who are exempt from immunisation requirements due to vulnerability or disadvantage (see Section 8.3), all children on an approved catch-up schedule will be reported

to the DoH when requested by the CHO. The AIR will provide the Communicable Disease Control Directorate with lists of WA children who are on an approved catch-up schedule which will be used to confirm that children reported to persons in charge as being on a catch-up schedule at the time of enrolment, were in fact on an approved catch-up schedule as recorded in AIR by their immunisation provider. In addition to enabling CDCD to provide follow up assistance to ensure these children are caught up on their vaccinations, this practice will also mitigate against the potential for parents/guardians to self-report that their child is on an approved catch-up schedule when they are not.

Potential impacts of this proposal on the early education and care industry

Advantages (benefits)

- provides the legal authority to child care services and kindergarten programs to prevent enrolment of under-vaccinated children
- may increase protection of staff and other visitors to child care services and kindergarten programs from VPDs

Disadvantages (costs)

- potential loss of income for privately operated child care services and community kindergartens, when an application for enrolment is denied due to the child not meeting immunisation enrolment requirements
- increased administrative burden as persons in charge are required to check that a child's current AIR Immunisation History Statement is 'up to date' as part of the enrolment process
- persons in charge may face confrontational situations when they have to inform families whose children do not meet these requirements that their child cannot be enrolled

Potential impacts of this proposal on families

Advantages (benefits)

- decreases the risk of potential exposure to VPDs for children and others at child care services and kindergarten programs, including infants who are too young to be vaccinated, and children with a medical contraindication to vaccination
- provides an impetus for families who have not otherwise been motivated to do so, to vaccinate their child
- encourages families to have their children complete the childhood immunisation schedule by the time children reach kindergarten enrolment or during the year they turn 4.

Disadvantages (costs)

- parents who refuse to vaccinate their child will need to find alternative arrangements for child care and early education
- parents who refuse to vaccinate their children may experience a loss of income if they abstain from work so they can stay home to look after their children

Potential impacts of this proposal on the State Government

Advantages (benefits)

- reinforces the importance of vaccination for protecting young children and the wider community
- reinforces the shared responsibility of the whole community for achieving and maintaining higher immunisation rates (herd immunity) in order to better protect those who can't be

vaccinated, including those who are too young to be vaccinated and those who are unable to be vaccinated for medical reasons
- promotes the recommendations of the NIP childhood schedule, by ensuring that by the time children reach kindergarten or during the year they turn 4, they have completed their childhood immunisation schedule
- contributes towards the achievement of NPEV benchmarks 1, 2 and 4 (see Section 5.1):
  1) increase in vaccination coverage rates for children aged 60 ≤ 63 months;
  2) increase in vaccination coverage rates for ATSI people in two age cohorts; and
  3) increase in vaccination coverage rates for children aged 60 ≤ 63 months in low coverage geographical areas
- aligns with Aim 1 and Objectives 1 and 2 of the WA Immunisation Strategy (see Section 5.3)

Disadvantages (costs)

- may result in some young children not benefiting from early education services, which ultimately may have longer term negative impacts on educational achievement with resulting socioeconomic disadvantage
- may decrease the available workforce as parents stay home to care for children

Proposal 1 - Guiding Questions for Consultation

- ► Do you agree that, with rare exception, children in WA should be fully vaccinated for age as a condition of enrolment into child care services and kindergarten programs?
- ► If 'no' or 'unsure', what do you suggest as an alternative proposal or activity to improve immunisation rates among young children?
- ► Do you agree with prescribing an offence with penalty $10,000 for persons in charge of child care services and kindergarten programs, who fail to comply with the proposed immunisation enrolment requirement?
- ► If 'no' or 'unsure', what do you suggest as an alternative penalty, if any?
- ► Do you agree that children on an approved catch-up schedule should be permitted to enrol?
- ► To assist in meeting the proposed immunisation requirements, what resources and/or support should the DoH provide to persons in charge of child care services and kindergarten programs, families and/or immunisation providers?
- ► Do you agree with the listed advantages (benefits) and disadvantages (costs)? Please provide evidence to support your views, including any likely overall financial impacts.
- ► Can you identify any additional advantages (benefits) and disadvantages (costs)? Please include quantitative evidence of any likely impacts.

8.2 Proposal 2 – In specified circumstances, allow for documentation other than a child's AIR Immunisation History Statement to be used to satisfy immunisation requirements for enrolment into child care services and kindergarten programs

Objective

Provide flexibility to address situations where a child's AIR Immunisation History Statement cannot be used as evidence of their immunisation status, when determining their eligibility for enrolment into a child care service or kindergarten program.

Proposal

Section 141C to provide alternative mechanisms for the CHO to either:

i. issue a certificate for a child who otherwise meets the immunisation requirements because a circumstance prescribed in the regulations is applicable to the child, or the CHO is otherwise satisfied that there are special circumstances that justify issuing a certificate for a child; or
ii. declare a document, or class of documents, to be an immunisation status certificate by notice published in the *Government Gazette*.

These mechanisms may be used to provide flexibility to address any individual or collective difficulty or deficiency that might result from exclusive use of AIR Immunisation History Statements to determine eligibility for enrolment.

It is proposed the following are to be prescribed in regulations as circumstances where the CHO may issue an alternative immunisation certificate for a child, as that circumstance applies to the child, and but for that circumstance the child's immunisation would be up to date:

- Temporary unavailability of a vaccine
    - the child has not received a vaccination at a particular age in accordance with the NIP Schedule; and
    - the child's immunisation status is 'not up to date'; and
    - the Commonwealth Chief Medical Officer has certified in writing that the applicable vaccine is temporarily unavailable; and
    - the vaccine is still not available; and
    - the CHO is satisfied that if the vaccine was available, the child would be immunised.

- Child has been fully vaccinated overseas but their AIR record is still being updated
    - the child has received one or more vaccinations overseas; and
    - a recognised immunisation provider has reviewed the overseas vaccination records (which may need to have been translated), and completed and signed the AIR History Form to certify in writing that those vaccinations have provided the child with the same level of immunisation that the child would have acquired if the child had been vaccinated in accordance with the NIP Schedule; and
    - the child's AIR record awaits updating; and
    - a letter is provided by the recognised immunisation provider to the CHO recommending that the CHO issue an alternative immunisation certificate because the child is fully vaccinated for age, but due to the time constraints inherent in the administrative processes required to update the child's immunisation history in AIR, the child is currently not eligible for enrolment; and

- the CHO is satisfied the above processes are being followed.

- Child is part of an approved vaccine study
  - the child is part of an approved vaccine study; and
  - a letter from the researchers is provided to the CHO which verifies that the child is a participant of the vaccine study; and
  - evidence is provided that the study is approved by a Human Research Ethics Committee registered with the National Health and Medical Research Council; and
  - the CHO is satisfied that but for participation in the vaccine study, the child would be fully immunised for age according to the standard NIP Schedule.

The above proposed prescribed circumstances are drawn from the circumstances for which a person may be considered exempt from the immunisation requirements for the purposes of receiving the Australian Government Child Care Subsidy.[32]

Additionally, the CHO will have the discretion to issue a certificate where a special circumstance has arisen that the CHO determines justifies the issue of a certificate. This general discretionary power is to capture any as yet unforeseen circumstances and would be expected to be used very rarely.

Potential impacts of this proposal on the early education and care industry

Advantages (benefits)

- will reduce any potential loss of income due to children experiencing an atypical or unforeseen circumstance which prevents them from meeting immunisation enrolment requirements, but for which they would otherwise be fully vaccinated

Disadvantages (costs)

No disadvantages (costs) have yet been identified

Potential impacts of this proposal on families

Advantages (benefits)

- will ensure all children who would otherwise meet immunisation requirements, but for their atypical or unforeseen circumstance, remain eligible to enrol in child care services and kindergarten programs

Disadvantages (costs)

No disadvantages (costs) have yet been identified

Potential impacts of this proposal on the State Government

Advantages (benefits)

- will not prevent children from enrolling who, but for their atypical or unforeseen circumstance, would otherwise meet immunisation requirements

Disadvantages (costs)

[32] *2.6.2.30 CCS – Immunisation Approved Exemptions*; Family Assistance Guide; version 1.209, released 4 February 2019; Commonwealth Government. Available at: http://guides.dss.gov.au/family-assistance-guide/2/6/2/30

- there will be some administrative burden/costs incurred by the CHO, or their delegate, associated with assessing requests to the CHO to issue an alternative immunisation certificate

Proposal 2 - Guiding Questions for Consultation

- ► Do you agree that the CHO should have the flexibility to issue an alternative immunisation certificate in the event the child is experiencing an atypical or unforeseen circumstance, but for which they would otherwise be fully vaccinated for age?
- ► Can you identify any other special circumstances a child may experience, but for which they would otherwise be fully vaccinated for age, that might warrant issuing an alternative immunisation certificate?
- ► Do you agree with the listed advantages (benefits) and disadvantages (costs)? Please provide evidence to support your views, including any likely overall financial impacts.
- ► Can you identify any additional advantages (benefits) and disadvantages (costs)? Please include quantitative evidence of any likely impacts.

8.3 Proposal 3 – Prescribe the categories of children for which exemptions to immunisation requirements for enrolment into child care services and kindergarten programs apply

Objective

This proposed immunisation policy acknowledges the importance of access to early education as communicated in the *2018-2019 National Partnership Agreement on Universal Access to Early Childhood Education.*[33] Access to early education services is particularly important for vulnerable and disadvantaged children, whose participation in early education programs should be encouraged and facilitated. It is proposed that under WA's No Jab No Play policy children who are vulnerable and disadvantaged will be exempt from the requirement to be fully vaccinated for age, as a condition of enrolment into child care services and kindergarten programs.

Proposal

Section 141D(2)(c) provides for a child who is an 'exempt child' to be permitted to enrol in a child care service, community kindergarten or school, before the child's compulsory education period.

For the purposes of the definition of 'exempt child' the proposed classes of children to which the exclusion arising from the immunisation requirements will not apply are as follows:

- The child is Aboriginal or Torres Strait Islander (ATSI) as defined under the *Children and Community Services Act 2004;*
    - Under the *Children and Community Services Act 2004* –
        - 'Aboriginal child' means a child who is a descendant of Aboriginal people of Australia.
        - 'Torres Strait Islander child' means a child who is a descendant of the indigenous inhabitants of the Torres Strait Islands.
    - As part of efforts made under the Commonwealth's Closing the Gap[34] policy, it is imperative that ATSI children have access to early education and care.
    - Some early education services (e.g. Budget Based Funded services) targeted at ATSI communities, also provide important support beyond mainstream early education, such as health services, family support services, parenting skills, transition to school and transport.
    - ATSI children may also live in a remote community.
- The child has an approved secretary's exemption from the Commonwealth Family Assistance Law Child Care Subsidy (CCS) immunisation requirements or an approved exemption from the Additional Child Care Subsidy (ACCS) immunisation requirements due to being at risk of serious abuse or neglect.

[33] *2018-2019 National Partnership on Universal Access to Early Education*, Department of Education and Training, Commonwealth Government. Available at: https://www.education.gov.au/national-partnership-agreements

[34] *Closing the Gap.* Department of the Prime Minister and Cabinet, Australian Government. Available at: https://closingthegap.pmc.gov.au/

  - 'Secretary's exemption' in respect to CCS and an 'approved exemption' in respect of ACCS are references to a determination under section 6(6) of the *A New Tax System Family Assistance Act 1999* (Cth) and Part 2 of the *Family Assistance (Immunisation and Vaccination) (Education) Determination 2018* (Cth Determination).
  - This aligns WA's exemptions for immunisation requirements for enrolment into early education and care services, with exemptions to immunisations requirements for the CCS and ACCS.

- At the time of enrolment, the child is in need of protection under the *Children and Community Services Act 2004* (WA);
  - 'in need of protection' is defined in section 28 of the *Children and Community Services Act 2004.*
  - This includes children subject to provisional protection and care or a protection order.
- The child is living in crisis or emergency accommodation, such as living in accommodation supported by the WA Department of Communities through the Housing Authority;
  - For example, crisis accommodation is temporary housing for people who are homeless or in an immediate housing crisis due to having to leave a dangerous situation such as domestic or family violence or a risk of domestic or family violence.
- The child has been evacuated from their residence due to it being in part of the State in which a state emergency is declared to exist under section 56 of the *Emergency Management Act 2005*;
  - For example, evacuated due to a declared natural disaster.
- The child is in the care of an adult who is not the child's parent due to exceptional circumstances such as illness or incapacity;
  - For example, children placed in emergency foster care because the parent/guardian needs emergency health care.
- The child is in the care of a parent or guardian who is the holder of an income support payment from the Government as follows:
  - A health care card issued under section 1061ZS of the *Social Security Act 1991* (Cth)
  - A pensioner concession card issued under section 1061ZF of the *Social Security Act 1991* (Cth)
  - A Gold Card, being a card issued to a person eligible for treatment under Part V of the *Veterans' Entitlement Act 1986* (Cth);
  - A White Card, being issued to a person eligible for limited treatment under Part V of the *Veterans' Entitlement Act 1986* (Cth);
- The child or parent of the child is a refugee, migrant or asylum seeker on a humanitarian visa who has recently arrived in WA.

- The parents of these children may have limited literacy or English language communication skills because they are newly arrived in Australia and therefore may have difficulty understanding local immunisation enrolment requirements, verifying any overseas immunisation records and/or producing an Australian immunisation certificate.
- It is noted that, the Humanitarian Entrant Health Service (HEHS) provides a free-of-charge health assessment service for all refugees and humanitarian entrants who are resettled in WA, under the Australia Government's Humanitarian Program and Special Humanitarian Program. This program includes an immunisation policy requiring persons referred to the HEHS to have their immunisation status reviewed in accordance with the NIP Schedule, and if their immunisation is not up to date or unknown, a catch-up schedule is recommended in accordance with the Australian Immunisation Handbook. Attendance at HEHS is voluntary and clients can be referred by a health professional, the Humanitarian Settlement Support Service, or can self-refer.

Parents/guardians of children in the above categories may find it difficult to access WA's immunisation services at important childhood vaccine schedule milestones, as well as to produce current immunisation records on enrolment.

It is also important to recognise that children in these classes may be 'educationally at risk'. Educational institutions build on and complement the emotional, social and financial resources that families provide for their child's development. [35] When a child's family environment or home support is inadequate, early childhood education assists these children to fulfil their potential by providing developmental opportunities that may not be otherwise available to them.[36] These children may therefore be disproportionately negatively affected by the immunisation enrolment requirements should they be prevented from accessing early childhood education. The Productivity Commission has found that the lifetime benefits of quality early childhood education are greater for children from disadvantaged backgrounds.

Persons in charge of child care services and kindergarten programs are best placed to assess a child's vulnerability and/or disadvantage, and determine their eligibility for an exemption to the immunisation requirements for enrolment.

The proposed process for determining a child's eligibility for exemption is as follows:

i. the DoH will provide all persons in charge of child care services and kindergarten programs with an 'Exemption Eligibility Form' (to be developed), made readily available online as well as provided through email distribution
ii. this form is to be used by child care services and kindergarten programs as part of enrolment documentation
iii. when a parent/guardian applies to enrol their child and cannot demonstrate their child has an 'up to date' immunisation status according to their AIR Immunisation History Statement, the parent/guardian is instructed to complete the 'Exemption Eligibility Form' to determine if the child is eligible to enrol under an exemption category:

[35] *Seen and heard: priority for children in the legal process (ALRC Report 84)*; Australian Law Reform Commission, Australian Government; published 19 November 1997. Available at: https://www.alrc.gov.au/publications/report-84

[36] *Childcare and Early Childhood Learning: Productivity Commission Inquiry Report*; No. 73, 31 October 2014. Productivity Commission, Commonwealth of Australia. Available at: https://www.pc.gov.au/inquiries/completed/childcare/report/childcare-overview.pdf

a. if the child is not eligible for an exemption, the application for enrolment cannot be progressed further by the child care service or kindergarten program
b. if the child is eligible for an exemption, the application for enrolment meets the immunisation enrolment requirements; the person in charge retains the 'Exemption Eligibility Form' on the child's record.

When requests for reports of under-vaccinated children are made by the CHO, the report must include children with an exemption; the report will note the exemption category of the child, as recorded on the 'Exemption Eligibility Form'. This process will assist the DoH to provide the appropriate referral pathway for immunisations services to the carer of the under-vaccinated child.

To assist persons in charge of child care services and kindergarten programs through this process, supporting guidelines will be made available on the DoH website and in email communications. Where required, telephone and email support will also be available through CDCD.

Potential impacts of this proposal on the early education and care industry

Advantages (benefits)

- maximises enrolments by allowing vulnerable and/or disadvantaged children who are under-vaccinated to enrol

Disadvantages (costs)

- requires some additional administrative processes for persons in charge to review and file Exemption Eligibility Forms that are submitted
- may require some additional liaising with families to support them through filing an Exemption Eligibility Form

Potential impacts of this proposal on families

Advantages (benefits)

- reduces the risk of further compounding disadvantage from not attending early education and care services, for these children and their families
- reduces the risk of these children having greater educational difficulties in later years

Disadvantages (costs)

No disadvantages (costs) have yet been identified

Potential impacts of this proposal on the State Government

Advantages (benefits)

- aligns with the priorities of the DoE in achieving optimal access to early education services for children considered as vulnerable or disadvantaged
- allows for the DoH to provide support to these families to access local immunisation services, as appropriate

Disadvantages (costs)

- requires some additional administrative processes for DoH to support persons in charge to manage the Exemption Eligibility Form process

Proposal 3 - Guiding Questions for Consultation

- ► Do you support the provision of exemptions to the immunisation enrolment requirements for vulnerable and/or disadvantaged children?
- ► Are the proposed categories of vulnerable and disadvantaged children which should be exempt from the immunisation enrolment requirements, appropriate?
- ► Do you agree with the proposed process to determine if a child qualifies for an exemption category?
- ► If 'no' or 'unsure', what do you suggest as an alternative process?
- ► Do you agree with the listed advantages (benefits) and disadvantages (costs)? Please provide evidence to support your views, including any likely overall financial impacts.
- ► Can you identify any additional advantages (benefits) and disadvantages (costs)? Please include quantitative evidence of any likely impacts.

8.4 Proposal 4 – Enable updated information about a child's immunisation status to be provided at times other than enrolment

Objective

To enable updated information regarding an enrolled child's immunisation status to be provided to the person in charge of a child care service, community kindergarten or school at times other than enrolment.

Proposal

Currently, regulation 10B of the *Public Health Regulations 2017* requires a parent/guardian to provide their child's immunisation status as recorded on the child's current immunisation certificate, to the person in charge of a child care service, community kindergarten and/or school, upon enrolment. Proposed section 141B(2)(a) of the Act will provide for this regulation requirement to be captured in the Act.

Additionally, new section 141B(2)(b) is proposed to provide flexibility in the future to require a parent/guardian to provide an updated immunisation certificate for their child to the person in charge, at other times, as prescribed in the regulations. Whilst no other times are currently proposed to be prescribed in regulations, as an example, a prescribed time could be at five years of age, when a young child's vaccination schedule should be complete. Should regulations be developed under this head of power in the future, consultation will occur with the relevant stakeholders and the RIA process followed.

A key feature of this broader immunisation policy is the provision of support to families of under-vaccinated children. This proposal will allow future flexibility, should the need arise, for the DoH to obtain updated immunisation status information of children enrolled, with a focus on requesting contact details of those children who have remained under-vaccinated or have fallen behind on their vaccinations after enrolment into child care or kindergarten. With timely, up-to-date, immunisation information on children enrolled in early education services and schools, the DoH can provide supportive referral pathways to families to help in accessing immunisation services. It is envisioned that this support would initially entail communication from CDCD to families, with subsequent follow up undertaken by the Metropolitan Communicable Disease Control (MCDC), Child and Adolescent Community Health (CACH), or the WA Country Health Service Regional Public Health Units, as appropriate. Additional funding for FTE in these agencies would need to be included as part of this policy initiative in order to follow up and case manage families, advise clinicians on individualised immunisation catch-up schedules, and update the AIR database. Refer to Table 6 for the proposed strategy to provide referral pathways to families in the metropolitan area and regions.

Potential impacts of this proposal on the early education and care industry

Advantages (benefits)

- allows future flexibility for persons in charge of child care services, community kindergartens and schools to access updated information related to the immunisation status of children enrolled
- allows for the DoH to provide support to these families to access local immunisation services, with the aim to increase immunisation rates for children attending child care services, community kindergartens and schools

Disadvantages (costs)

- should regulations be prescribed in future in this regard, there will be some administrative requirement for persons in charge to request and collect the updated immunisaiton information from parents/guardians

Potential impacts of this proposal on families

Advantages (benefits)

- should regulations be prescribed in future in this regard, in the case of a child who is under-vaccinated, the family will receive support from the DoH to enable better access to local immunisation services

Disadvantages (costs)

- should regulations be prescribed in future in this regard, there will be some impost on parents/guardians to provide the updated information

Potential impacts of this proposal on the State Government

Advantages (benefits)

- should regulations be prescribed in future in this regard, it will enable the DoH to identify and follow up the families of children who are not up to date with their immunisations following enrolment into child care services, community kindergartens and school

Disadvantages (costs)

- should regulations be prescribed in future in this regard, additional funding for FTE would be needed to follow up and case manage families, advise clinicians on individualised immunisation catch-up schedules, and update the AIR database.

Proposal 4 - Guiding Questions for Consultation

► Do you support the provision that the DoH could prescribe another time or times at which a child's updated immunisation certificate needs to be provided by the parent/guardian to the person in charge of the child care service, community kindergarten or school?

► Do you agree with the listed advantages (benefits) and disadvantages (costs)? Please provide evidence to support your views, including any likely overall financial impacts.

► Can you identify any additional advantages (benefits) and disadvantages (costs)? Please include quantitative evidence of any likely impacts.

8.5 Proposal 5 – Offences for which penalties may be issued

Objective

To provide for penalties for non-compliance with the legislation.

Proposal

In addition to the new offence outlined under Proposal 1 (see Section 8.1), there are two additional relevant offences:

i) amendments to section 254 of the Act will clarify that it is an offence for a person to give false or misleading information in respect to information regarding a child's eligibility for exemption status as well as their immunisation status. Penalty is a fine of $10,000.

ii) amendments to section 240(1)(d) of the Act will clarify an authorised officer's power to enter and inspect premises where it is reasonably suspected there are documents that relate to a public health risk. A public health risk in this context has been clarified to include a public health risk posed by a child not having been immunised. This is to ensure that the person in charge of a child care service, community kindergarten or school is required to produce immunisation related information for inspection on request by an authorised officer where the information is needed to assist in preventing, controlling or abating a public health risk that might foreseeably arise from a child or children not being immunised against a VPD. It is an offence under the Act for a person to obstruct, or attempt to obstruct an authorised officer in the performance of their duties under the Act. The penalty for this offence is $10,000.

As the Act will hold the primary authority for these penalties, the responsibility for enforcement will be led by CDCD (DoH) who will assess the threat to public health and perform any required follow-up investigations. The Education and Care Regulatory Unit (ECRU) and DoE may be required to assist in such investigations.

Potential impacts of this proposal on the early education and care industry

Advantages (benefits)

- provides incentive to meet the immunisation requirements, reducing the risk that children at child care services and kindergarten programs will be exposed to VPD

Disadvantages (costs)

- potential administrative cost required to determine that documentation and other evidence provided to demonstrate eligibility for exemption or immunisation status, are neither false or misleading

Potential impacts of this proposal on families

Advantages (benefits)

No advantages (benefits) have yet been identified

Disadvantages (costs)

No disadvantages (costs) have yet been identified

Potential impacts of this proposal on the State Government

Advantages (benefits)

- strengthens the government's ability to properly investigate and address public health threats posed by VPDs

Disadvantages (costs)

- potential administrative cost required to determine that documentation and other evidence provided to demonstrate eligibility for exemption or immunisation status, are neither false or misleading
- where required, additional resourcing will be needed to investigate and enforce penalties for non-compliance, including any resourcing requirements for ECRU

Proposal 5 - Guiding Questions for Consultation

► Do you support the offences for non-compliance?

► If 'no' or 'unsure', what do you suggest as an alternative for non-compliance with these requirements?

► Do you agree with the listed advantages (benefits) and disadvantages (costs)? Please provide evidence to support your views, including any likely overall financial impacts.

► Can you identify any additional advantages (benefits) and disadvantages (costs)? Please include quantitative evidence of any likely impacts.

8.6 Proposal 6 – Minor technical amendments to the *Public Health Act 2016*

Objective

To repeal obsolete legislation in the *Public Health Act 2016* and clarify existing requirements.

Proposal

Two minor amendments under the Act are required:

i) sections 142(2)(b) and (c), which relate to the retention and storage of information about a child's immunisation status, are to be repealed. These requirements are addressed via existing legislation under the Departments of Education and Communities' portfolios.

ii) the term 'report' as used in section 142 was intended when the Act was originally drafted to include further information, including the name or names of the child/children and the name and contact details of the responsible person/s for the child/children. The Department requires such information to undertake follow up work relating to immunisations or to assist in preventing, controlling or abating a public health risk that might foreseeably arise from a child not being immunised against a VPD. Since implementation of the Act, a narrower interpretation has been provided in respect to this term. Accordingly an amendment is required to clarify its original intent.

Potential impacts of this proposal on the early education and care industry, families, and the State Government

Advantages (benefits)

- enable the Government's legislation to be consistent, removing a potential source of uncertainty to all parties

Disadvantages (costs)

- No disadvantages (costs) have yet been identified

Proposal 6 - Guiding Questions for Consultation

As this Proposal is for minor technical amendments, there are no Guiding Questions.

8.7 Proposal 7 – Consequential amendments to other legislation

Objective

Amendments to the *School Education Act 1999* are required to provide consistency with and complement, Proposals 1-6.

Proposal

These amendments are being addressed simultaneously in the Bill.

Minor consequential amendments are also required to the *Public Health Regulations 2017*, *School Education Regulations 2000* and *Child Care Services (Child Care) Regulations 2006*. At a later stage in 2019, the *Education and Care Services National Regulations 2012* will also be amended to provide consistency with the Act.

Proposal 7 - Guiding Questions for Consultation

As this Proposal is for consequential amendments which relate to Proposals 1-6, there are no Guiding Questions.

Closing Questions – additional proposals or comment

- ► Can you identify any additional regulatory proposals to be considered or any other way of achieving higher immunisation rates for young children in WA? Please provide details as well as supporting evidence where possible.
- ► Do you have any additional comments in relation to the proposed Bill to strengthen immunisation enrolment requirements for child care services and kindergarten programs?

9 Consultation

The WA Government is committed to ensuring that regulation delivers the best outcomes at the lowest cost to the community, and by following the RIA process is ensuring that effective and appropriate consultation has taken place.

9.1.1 Consultation to date

Throughout the development of the broader WA No Jab No Play policy, various stakeholder groups have been invited to consult. These stakeholder groups include:

- Government departments
- Local government agencies
- Child care providers
- Health consumer agencies
- Children's welfare groups
- Child care advocate groups
- Non-government schools associations
- Teachers' professional organisations
- Schools administrator organisations
- Health service providers
- Immunisation providers
- Aboriginal health organisations
- Members of WA Immunisation Strategy Implementation Steering Committee; and
- Professional organisations for medical practitioners.

9.1.2 Current public consultation

The DoH is currently seeking feedback on the seven Proposals outlined in this CRIS, as part of the RIA process. The information gathered from this consultation will assist to identify issues of concern within each Proposal, and assist to develop any additional options or proposals for reform not already identified.

At the conclusion of the consultation process, a Decision Regulatory Impact Statement (DRIS) will be prepared which analyses the impacts of the various options and proposals in light of the submissions received. Based on that analysis, conclusions are subsequently drawn and recommendations made as to the preferred option and proposals to be implemented, to achieve the desired public health outcomes. The key findings of the consultation will be available online at www.health.wa.gov.au, when a decision on the Bill has been made public. Please note:

- Your feedback forms part of a public consultation process, and the Government may quote from your comments in future publications. If you prefer your name and/or organisation to remain confidential, please indicate this requirement in your submission.
- Submissions made in response to the Bill may be subject to Freedom of Information requests, and you are advised not to include any personal or confidential information that you would not want in the public domain.

While this consultation is open to the public on the WA Health Consultation Hub,[37] the proposed Draft Bill and CRIS have also been communicated to numerous stakeholder groups (similar to those listed in Section 9.1.1) inviting their participation, including:

[37] *WA Health Consultation Hub*; Department of Health, Government of Western Australian. Available at: https://consultation.health.wa.gov.au/

- Government departments
- Local government agencies
- Small business advisory organisations
- Child care providers
- Health consumer agencies
- Parent organisations
- Children's welfare groups
- Child care advocate groups
- Non-government schools associations
- Teachers' professional organisations
- Schools administrator organisations
- Health service providers
- Immunisation providers
- Aboriginal health organisations
- Members of WA Immunisation Strategy Implementation Steering Committee; and
- Professional organisations for medical practitioners.

You are invited to participate in this public consultation by responding to the Guiding Questions under the Options and the Proposals. The Guiding Questions facilitate the consultation process by providing a framework for submissions. You do not have to respond to all questions, and instead you may prefer to respond to only those questions that are relevant to you.

In providing your response, please explain the reasons behind your comments and where possible provide evidence to support your views e.g. statistics, publications, examples.

9.1.3 How to Make a Submission

There are three ways in which you can respond to the Guiding Questions and submit your response:

Online	https://consultation.health.wa.gov.au/
Email	Complete the Guiding Questions and email to: immunisation@health.wa.gov.au
Post	Complete the Guiding Questions and post to: Immunisation Consultation Communicable Disease Control Directorate Public and Aboriginal Health Division Department of Health PO Box 8172 Perth Business Centre WA 6849

You can also provide any additional feedback on the Bill by emailing: immunisation@health.wa.gov.au.

The closing date for submissions is **26 March 2019 at 5pm (WST)**.

10 Implementation

Following the outcomes of consultation it is intended that the Bill will be introduced into Parliament. Implementation of the policy will be largely undertaken by the DoH, in collaboration with the DoE, DoC and DPC.

Essentially, implementation will comprise two main processes occurring concurrently:

i) legislative process; and

ii) communications.

The proposed legislative process is intended to be complete in time for the 2020 school enrolment period during July 2019. Communication activities will need to be undertaken in the lead up to enable parents, and persons in charge of child care services and kindergarten programs, to be fully prepared for the legislative changes.

The legislative process is being led by the DoH, in collaboration with counterparts at DPC, DoE and DoC.

A comprehensive Communications Plan has been developed by the DoH Communications Directorate, with input from communications personnel at DoE and DoC; the plan commenced in December 2018 with a media statement from the Ministers for Health, and Education. This plan aims to ensure that comprehensive communications are provided to all stakeholder groups in a timely manner. Communication messages will provide information and guidance to the various audiences on what the changes mean, and how to meet legal responsibilities and the conditions of enrolment. Stakeholder groups include the general public; families; persons in charge of child care services, community kindergartens and schools with kindergarten programs; and immunisation providers. Messages will be created to target these groups using the Department of Health website, HealthyWA Facebook page, email, radio, and press advertising.

11 Evaluation

Evaluating implementation of the proposed immunisation policy will take a three part approach:

i) monitoring immunisation rates of children aged 5 years and under both before, during and after policy implementation, as well as number of notifications of VPDs

ii) gathering qualitative data on the impacts to early education and care industry, families and State Government; and

iii) undertaking a statutory review in accordance with section 306 of the Act.

Desired outcomes:

- improved immunisation coverage rates of WA children attending non-compulsory early education and care, to ≥ 95%
- minimal negative impact experienced by stakeholders; and
- reinforcement of the importance of vaccination for children and the wider community.

11.1 Monitor immunisation rates and notifications of VPDs

Currently, records of all childhood vaccines administered since 1 January 1996 are stored in the AIR. Data on immunisation episodes are recorded by the administering health service provider e.g. child health centres, immunisation clinics, GP Medical Centres, Aboriginal medical services.

As part of ongoing business activities, CDCD analyses and disseminates statewide AIR and other immunisation related data.[38] This monitoring activity will be able to measure the impact of the legislative changes across the relevant timeline, including both before and after the proposed amendments come into effect, with the most impact to immunisation rates expected to occur from 2021 onwards.

The following data would be monitored and analysed to determine if immunisation coverage increases to ≥ 95%:

- immunisation rates of WA children at 1, 2, and 5 years of age
- these rates by region, ATSI status; and
- number of exempt children, who are also reported as under-vaccinated, who are subsequently caught up following the provision of referral pathways by WA Health.

CDCD conducts surveillance of notification rates for VPDs occurring within the WA population; analyses of notification rates during the period before and after the implementation of the NJNP legislation will also form part of the evaluation of the NJNP policy.

11.2 Monitor impacts

Given the identified advantages and disadvantages of the Proposals across the industry, families and state government, the evaluation of NJNP proposes qualitative surveying of stakeholders to measure indicators including, but not limited to:

- awareness of legal requirements of persons in charge of child care services, community kindergartens, and schools with kindergarten programs
- operational impact on persons in charge of child care services, community kindergartens, and schools with kindergarten programs
- operational and economic impact on small business; and
- appropriateness of the prescribed exemption categories and the exemption process.

11.3 Statutory review

The amendments are intended to come into operation by July 2019 in time for the commencement of the 2020 enrolment period. Once implemented, the proposals will be subject to the five year statutory review requirement under section 306 of the Act. The first review of the Act is expected to occur in 2021 and be undertaken in accordance with the requirements set by the Public Sector Commission's *Guidelines for the review of legislation.*[39]

[38] *Agreed roles and responsibilities in the control of communicable disease and health care acquired infections, F-AA-49993, 2nd edition*, 2018; Department of Health, Government of Western Australia. Available at: https://ww2.health.wa.gov.au/Articles/N_R/Roles-and-responsibilities-in-control-of-communicable-disease-and-health-care-associated-infections

[39] *Guidelines for the review of legislation*; Public Sector Commission, Government of Western Australia. Available at: https://publicsector.wa.gov.au/public-administration/public-sector-governance/guidelines-review-legislation

12 Acronyms

Acronym	Definition
AIR	Australian Immunisation Register
AMS	Aboriginal medical service
ATSI	Aboriginal and Torres Strait Islander
CACH	Community and Adolescent Community Health
CDCD	Communicable Disease Control Directorate
CHO	Chief Health Officer
COAG	Commonwealth of Australian Governments
CRIS	Consultation Regulatory Impact Statement
DoC	Department of Communities
DoE	Department of Education
DoH	Department of Health
DPC	Department of the Premier and Cabinet
DRIS	Decision Regulatory Impact Statement
ECRU	Education and Care Regulatory Unit
IGA FFR	Intergovernmental Agreement on Federal Financial
MCDC	Metropolitan Communicable Disease Control
NIP	National Immunisation Program
NJNP	No Jab No Play
NPEV	National Partnership on Essential Vaccines
PAHD	Public and Aboriginal Health Division
PCO	Parliamentary Counsel's Office
RIA	Regulatory Impact Assessment
VPD	Vaccine-preventable (notifiable infectious) disease
WA	Western Australia

This document can be made available in alternative formats on request for a person with disability.