

Public Consultation regarding Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019

A simplified guide to responding to the guiding questions

Closing date: Tuesday 26 March 2019 5.00PM WST

WA Health has published a large amount of information about the government's proposal to enact a 'No job no Play' law, on its Consultation Hub.

WA Health Consultation Hub

<https://consultation.health.wa.gov.au/communicable-disease-control-directorate/immunisation-requirements-for-enrolment-bill-2019/>

Three documents have been provided on the Consultation Hub and are linked below.

1 Proposed No Job No Play Bill

[Public Health Amendment \(Immunisation Requirements for Enrolment\) Bill 2019.pdf](#) 1016.1 KB (PDF document)

2 Discussion paper

[Discussion Paper, CRIS - Immunisation requirements for enrolment.pdf](#) 1.8 MB (PDF document)

3 Guiding Questions

[Guiding Questions - Immunisation requirements for enrolment.pdf](#) 182.6 KB (PDF document)

The following guide is a simplified version of the 'Guiding Questions' document and is intended to make it easy for citizens who support vaccine freedom of choice to have a say in vaccination policy in Western Australia, by answering 25 questions. 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.

Make submission via online form

<https://consultation.health.wa.gov.au/communicable-disease-control-directorate/immunisation-requirements-for-enrolment-bill-2019/consultation/intro/>

Once you have submitted your responses via the online form, you will receive a confirmation email and a link to a pdf copy of your responses.

Questions 1 – 5: Personal Details – Recommended Options

Question 1: Would like your responses to be confidential?

Explanation

Your feedback forms part of a public consultation process, and the Government may quote from your comments in future publications. Unless marked as 'confidential', all correspondence will be regarded as public documents which may be made available on the Department of Health website, be viewed by members of the public on request. Submissions made in response to the Bill may also 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.

Recommended Response

No recommended response. If you wish for your responses to remain confidential, answer 'Yes' to this question, otherwise leave blank.

Question 2: Name

Explanation

You are required to provide a name. However, we do not foresee any negative consequences of using an alias if you are concerned about possible future persecution by government entities.

Recommended Response

Enter your name or preferred name

Question 3: Contact Email Address

Explanation

If you wish to receive a confirmation of receipt and pdf copy of your submission, then you should enter your email address. Providing an email address will also allow the Department of Health to contact you to request further information. If you are using an alias, a free email account can be created for this purpose.

Recommended Response

Enter your preferred email address

Question 4: Name of your organisation

Explanation

Self-explanatory

Recommended Response

Enter the name of your organisation, if applicable

Question 5: Which sector do you represent?

Explanation

You are required to make one or more selections which best describe you or your organisation.

Recommended Response

Make one or more selections, or enter an additional category under 'other'.

Questions 6 – 7: Proposed Options

Question 6: Which Option do you support?

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.

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.

Explanation

Option A is already law in Western Australia, effective from 01 January 2019. Parents are required to provide a vaccination history/status to childcare services, kindergartens and schools when enrolling their child, but the child is not required to be vaccinated. This vaccination history/status information may be used by the Chief Health Officer and/or WA Health to temporarily exclude unvaccinated children during an outbreak of notifiable (so-called) vaccine-preventable diseases.

*The Chief Health Officer has also been given the power to prevent incompletely vaccinated children from **attending** a childcare service, kindergarten or school in the event they have been exposed to a so-called vaccine-preventable disease in places outside of the school grounds, and who could, by continuing to attend school, allegedly put other children at risk of exposure. The Minister for Health has indicated that he expects this power to be used infrequently, and it should be noted that the Chief Health Officer's powers under the Public Health Act, must be exercised according to the principle of proportionality.*

Option B proposes to ban incompletely vaccinated children from being enrolled in childcare services and kindergarten programs (No Jab No Play).

Recommended Response



I support Option A

If you support Option A or B, why is this your preferred option?

Possible reasons for preferring option A

I support Option A over Option B for the following reasons. Option A:

- recognises the precautionary principle and undone science regarding the safety of vaccination in a genetically diverse population, by stopping short of mandating the procedure
- recognises that vaccination is not compulsory in Australia, and that parents are best placed to make medical decisions for their children in conjunction with their preferred health care provider, without government intrusion
- recognises there is no evidence that incompletely vaccinated, but otherwise healthy children, pose a risk to other children and adults
- recognises that parents who make a conscious decision to not vaccinate, or selectively vaccinate, are genuinely acting in the best interests of their children, and will have come to this decision based on multiple sources of information, including direct observation of harm following previous vaccinations, pre-existing medical conditions, and family/genetic history
- preserves universal access to child care services and kindergarten programs
- serves as a reminder to those parents who were already intending to vaccinate their child according to the schedule, but does not penalise those children whose parents have chosen to not vaccinate, or selectively vaccinate their children

If you support Option A or B, can you identify any other advantages (benefits)? Please provide details and supporting evidence where possible

Some additional advantages of Option A

Option A provides the following additional benefits over Option B:

- The Department of Health has previously determined that Option A is the preferred option for increasing vaccination rates without invoking the adverse consequences of denying incompletely vaccinated children the benefits of early childhood education, or creating lower household incomes in these families because parents were unable to attend work without childcare.

Source: Preliminary Impact Assessment – Immunisation Status Reporting – 13 December 2016 (page 4)

https://avn.org.au/wp-content/uploads/2019/03/20161213_RG1571-PIA-Immunisation-Status-Reporting_Redacted.pdf

- Allows the Department of Health to use the vaccination status information it collects via Option A to publish more accurate reports on the number of infectious diseases occurring in vaccinated vs unvaccinated children. This is necessary because there is an incorrect perception that infectious diseases occur more commonly in unvaccinated children, when there is no evidence this is the case.
- The A.C.T. and Tasmania, which employ documentation requirements similar to Option A, and do not have No Jab No Play laws, have the highest vaccination coverage rates in Australia for the one and five year old cohorts respectively <https://beta.health.gov.au/health-topics/immunisation/childhood-immunisation-coverage/current-coverage-data-tables-for-all-children>

If you support Option A or B, can you identify any other disadvantages (costs)? Please provide details and supporting evidence where possible

Possible disadvantages of Option A

Possible disadvantages of Option A include:

- Has the potential to create an incorrect perception that vaccination is mandatory for enrolment in child care services and kindergarten programs.
- The overly expansive powers of the Chief Health Officer under Public Health Regulation 10E, creates a risk that incompletely vaccinated children will be prevented from attending childcare, kindergarten and school in circumstances where they do not pose a risk to others
- Even though Option A is the most appropriate option when compared with Option B, politicians may feel pressured into supporting Option B, due to the confected outrage of extremist mandatory vaccination lobbyists, such as Light for Riley, who seek to unnecessarily punish incompletely vaccinated children and their parents; and the ensuing orchestrated media campaign from their corporate media supporters.

**Question 7: Are there other options you would suggest and why?
Please provide details and supporting evidence where possible**

Explanation

What options could be proposed other than Option A or B? If Option B continues to be the Government's preferred option, then we need to advocate for appropriate exemptions.

Suggested alternatives to Option A or B

Under the precautionary principle, Option B should be amended to include the following **two** exemptions:

(1) Conscientious objection to vaccination – based on a personal, philosophical, religious or medical belief that one or more prescribed vaccinations should not take place.

- A 2017 WA Health discussion paper noted there was little evidence that the federal No jab No Pay law, which abolished conscientious objection to vaccination, has had any substantive impact on vaccination rates in young children.
[https://avn.org.au/wp-content/uploads/2019/03/20170809 Talking-points Options-for-improving-childhood-vacc-rates... Redacted.pdf](https://avn.org.au/wp-content/uploads/2019/03/20170809_Talking-points_Options-for-improving-childhood-vacc-rates..._Redacted.pdf)
- Parents with a conscientious objection to vaccination are extremely unlikely to be coerced by 'No Jab No Play' (Option B), therefore the law will only serve to punish children and families, rather than contributing to the Government's goal of increasing vaccination rates.
<https://newsroom.unsw.edu.au/news/health/taking-big-stick-vaccine-conscientious-objectorsmight-backfire>
- In a study of parents attending a specialist vaccination clinic in Melbourne, Forbes and colleagues (2015) found that when compared with pre-clinical parental positions on vaccination, there was a trend for the children of conscientious objectors to remain unvaccinated.
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5054782/>
- Between the years 2016 and 2017 inclusive, the New South Wales No Jab No Play law, included a provision for conscientious objection exemptions. As the Australian Immunisation Register no longer records conscientious objection, the New South Wales Ministry of Health created a state-based form for this purpose. A link to this form is provided below, and could be easily adapted for use in Western Australia.
<https://avn.org.au/vaccination-objection-for-enrolment-in-child-care-in-nsw/>
- To address any concern that parents may register an objection to vaccination for frivolous reasons, parents could be required to register an objection yearly, instead of once only. This strategy is recommended by Australian experts in public health.
<http://onlinelibrary.wiley.com/doi/10.1111/jpc.13472/full>

Suggested alternatives to Option A and B (continued from previous page)

(2) Medical contraindication to vaccination – non-prescriptive and based on a doctor’s clinical judgement in each individual case.

- The Australian Immunisation Register (AIR) does not currently accept certified medical exemptions unless they meet arbitrarily narrow contraindication criteria, which infringes the clinical autonomy of doctors. The contraindication criteria used by the AIR is also inconsistent with both manufacturers recommendations and U.S. recommendations. A copy of the U.S. Vaccine Information Statements, which list contraindications to vaccination, are available at the link below for comparison with contraindications permitted by the AIR.
<https://www.cdc.gov/vaccines/hcp/vis/current-vis.html>
- The current medical exemption form provided by the AIR is so restrictive that it effectively abolishes almost all medical exemptions. Therefore an additional provision should be included to allow doctors to certify medical contraindication exemptions by writing a letter. This will prevent children from being denied enrolment into childcare or kindergarten services if the AIR refuses to accept a medical exemption.

Questions 8 – 12: 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 (No Jab No Play)

Question 8: 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?

Explanation

Option B: Proposal 1 requires that a child must have received all prescribed vaccines to be able to access childcare services or kindergarten.

Recommended Response



No

If 'no' or 'unsure', what do you suggest as an alternative proposal or activity to improve immunisation rates among young children?

Suggested comments

No alternative proposal to increase vaccination rates is necessary. The following strategies are already in place to maximise vaccination rates:

- Federal ‘No Jab No Pay’ legislation, effective from 01 January 2016, and Western Australia Public Health Regulations, effective from 01 January 2019, both act as a reminder to those parents who do not object to vaccination

Question 9: 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?

Explanation

This proposal imposes a significant penalty on childcare services and kindergartens when they fail to adequately police vaccination enrolment requirements.

Recommended Response

 **No**

If 'no' or 'unsure', what do you suggest as an alternative penalty, if any?

Suggested comments

No alternative penalty is required.

- Child care services and kindergartens are already highly regulated
- There was no evidence presented in the discussion paper to indicate that such a penalty would be necessary

Question 10: Do you agree that children on an approved catch-up schedule should be permitted to enrol?

Explanation

This section will only be applicable if appropriate exemptions are not included in Option B.

Recommended Response

 **Yes**

If 'no' or 'unsure', why not?

Suggested comments

Not applicable

Question 11: 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?

Explanation

Experience from Victoria shows that the Department of Health & Human Services and the Department of Education have actively misled childcare services and kindergartens about the provisions and scope of the No Jab No Play law in that state. As a result, children have been denied enrolment in circumstances where they were eligible to be enrolled.

Suggested comments

- DoH should ensure that all information and advice it provides regarding vaccination policies is accurate and does not seek to mislead parties who rely on that information.
- WA Health has a history of misleading the general public. See for example, the website page linked below. The heading creates an incorrect perception that children are required to be vaccinated for enrolment in school.
<https://ww2.health.wa.gov.au/Media-releases/2017/Up-to-date-immunisations-essential-for-2018-school-enrolments>
- The term 'immunisation' should be replaced with vaccination in all materials published by the DoH, because use of that term as a proxy for vaccination, is inherently misleading. People who are vaccinated against a targeted disease may or may not be immunised against that disease.
<https://www.healthdirect.gov.au/immunisation-or-vaccination-whats-the-difference>
- DoH publications should not use biased, negative language that further entrenches a negative view of incompletely vaccinated children, and their parents.

Question 12: Do you agree with the listed advantages (benefits) and disadvantages (costs)?

Explanation

This question refers to the alleged advantages, and disadvantages of Option B (No Jab No Play), listed on pages 12-13 of the Guiding Questions document.

Recommended Response



No

Please provide evidence to support your views, including any likely overall financial impacts

Suggested comments

You should include here, any personal stories about how you will be negatively affected by Option B (No Jab No Play), such as:

- losing your child's place at a private school (with long waiting lists) due to your child being ineligible for enrolment in the kindergarten year at that school
- having to resign from your employment or delay your return to work to look after your child
- having to abandon study to look after your child
- being forced into using unregulated childcare services which may not be safe
- being unable to obtain a medical exemption for your child/children

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

Suggested comments

Additional disadvantages of Option B (No Jab No Play) which were not listed:

- No Jab No Play is a socially divisive policy which legitimises the dehumanisation and hatred of incompletely vaccinated children and their parents
- The policy fixates on vaccination rates, while ignoring: (1) overall health outcomes in children in terms of chronic disease and disability; and, (2) important social determinants of health such as inclusion, socialisation and early childhood education
<https://www.aihw.gov.au/getmedia/11ada76c-0572-4d01-93f4-d96ac6008a95/ah16-4-1-social-determinants-health.pdf.aspx>
- Creates an incorrect perception and false sense of security that the exclusion of incompletely vaccinated children will prevent disease outbreaks, even though large numbers of fully vaccinated children are being notified with diseases such as Whooping Cough, Mumps, and Chickenpox. Increasing already high vaccination rates will not change this state of affairs. See for example:
 - Mumps outbreaks in large numbers of fully vaccinated children in Western Australia
[https://www.thelancet.com/journals/laninf/article/PIIS1473-3099\(18\)30498-5/fulltext](https://www.thelancet.com/journals/laninf/article/PIIS1473-3099(18)30498-5/fulltext)
 - Chickenpox outbreak in large numbers of vaccinated children attending a childcare centre in Queensland – index case was also vaccinated
<https://avn.org.au/wp-content/uploads/2018/01/A-Prof-Stephen-Lambert-Break-through-Chickenpox.mp4>
 - Associate Professor Anne Koehler (member of ATAGI’s Pertussis Working Party) reported high rates of Whooping Cough in fully vaccinated children
<https://avn.org.au/wp-content/uploads/2018/10/Dr-Ann-Koehler-slides-updated-high-quality.pdf>

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

Suggested comments (continued from previous page)

Additional disadvantages of Option B (No Jab No Play) which were not listed:

- The Australian Immunisation Handbook states that for consent to be legally valid, it must be given voluntarily in the absence of undue pressure, coercion or manipulation, and the Medical Board of Australia Code of Conduct requires that consent to medical procedures be voluntary. Option B (No Jab No Play) violates valid consent by requiring coercive clinical practices.
<https://avn.org.au/haire2018/>
- Imposes an additional burden on families whose children have already been adversely affected by unacknowledged harms of vaccination
- Disproportionately disadvantages women by delaying their return to work
- Exposes children to foreseeable risks of adverse reactions due to the effective abolition of medical contraindication exemptions by the AIR

Questions 13 – 15: 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

Question 13: 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?

Explanation

This will allow the Chief Health Officer (CHO) to allow children with incomplete vaccination records to still attend childcare or kindergarten in rare circumstances (eg. children who have been vaccinated overseas and are waiting for their Australian Immunisation Register record to be updated).

Recommended Response

 **Yes**

If 'no' or 'unsure', why not?

Suggested comments

Not applicable

Question 14: 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?

Explanation

This question is asking if you can think of any other situations when a child may have received all vaccines but is not up to date on the Australian Immunisation Register

Recommended Response

 **Yes**

If 'yes', please provide details

Suggested comments

- Children who have received all vaccines, but the AIR record is in error
- Children who have suffered an adverse reaction to vaccines, but are unable to obtain a medical exemption via the current AIR form
- Children who have received nearly all vaccines, but may be missing a single booster
- Children who have naturally acquired immunity for an infectious disease for which there is no available titre test (eg. diphtheria, pertussis, tetanus, polio, hib, meningococcal, pneumococcal)

Question 15: Do you agree with the listed advantages (benefits) and disadvantages (costs)?

Explanation

This section refers to the Advantages and Disadvantages for Proposal 2 discussion on page 17 of the Guiding Questions document.

Recommended Response



Please provide evidence to support your views, including any likely overall financial impacts

Recommended Response

There would be benefit in providing additional flexibility that is not offered by the Australian Immunisation Register where such punitive measures are being implemented. It is reasonable to recognise that not all vaccines work in the same way for each individual child.

Questions 16 – 19: Proposal 3 – Prescribe the categories of children for which exemptions to immunisation requirements for enrolment into child care and kindergarten programs apply

Question 16: Do you support the provision of exemptions to the immunisation enrolment requirements for vulnerable and/or disadvantaged children?

Explanation

This section allows an exemption from Option B (No Jab No Play) for disadvantaged children. These groups are listed in the explanation for Question 17 below.

Recommended Response

 **Yes**

If 'no' or 'unsure', why not?

Recommended Response

Not applicable

Question 17: Are the proposed categories of vulnerable and disadvantaged children which should be exempt from the immunisation enrolment requirements, appropriate?

Explanation

The proposed exemption categories include:

- Aboriginal or Torres Strait Islanders (ATSI)
- Child at risk that has a current exemption from Child Care Subsidy vaccination requirements under the federal No Jab No Pay law
- Child under a care and protection order
- Child living in crisis or emergency accommodation
- Child that has been evacuated due to there being a State of Emergency (e.g. natural disaster)
- Child who is in someone else's care due to exceptional circumstances (such as illness)
- Child whose parents have a Health Care Card or similar
- Children who are refugees, migrants or asylum seekers

Recommended Response

 **No**

If 'no' or 'unsure', what do you suggest?

Recommended Response

The proposed exemption categories are appropriate, but don't extend far enough. As noted previously, exemptions from the vaccination requirement should also be available for the the following reasons:

- (1) Conscientious objection to vaccination – based on a personal, philosophical, religious or medical belief that one or more prescribed vaccinations should not take place
- (2) Medical contrindication to vaccination – non-prescriptive and based on a doctor's clinical judgement in each individual case

Question 18: Do you agree with the proposed process to determine if a child qualifies for an exemption category?

Explanation

This section refers to the administrative burden on childcare centres and kindergartens to police vaccination enrolment requirements under Option B (No Jab No Play) by requiring them to determine whether a child is exempt them from the vaccination requirement.

Recommended Response



If 'no' or 'unsure', what do you suggest as an alternative process?

Recommended Response

The role of childcare centres and kindergartens is to care for, and educate children, not to police draconian government vaccination requirements. These services already have a high administrative burden, so it should not be expected of them to administer overly complex exemption requirements, then punish them if they make an unintentional error.

Suggested alternative:

- The No Jab No Play model used in Queensland permits services the discretion to enrol both, disadvantaged children who may not be up-to-date with all prescribed vaccinations; and, children whose parents have a conscientious objection to one or more scheduled vaccinations, without a need for services to follow complex and prescriptive exemption criteria.
- Services in Queensland are also protected by the legislation from legal sanctions and penalties when exercising this discretionary power.

Question 19: Do you agree with the listed advantages (benefits) and disadvantages (costs)?

Explanation

This section refers to the Advantages and Disadvantages for Proposal 3 listed on page 22 of the 'Guiding Questions' document.

Recommended Response

 **No**

Please provide evidence to support your views, including any likely overall financial impacts

Recommended Response

- The negative consequences of denying early childhood education and socialisation in the year before compulsory schooling affects ALL children, not just disadvantaged children.
- There is a risk of children being excluded that may have been in an exemption category.

Questions 20 – 21: Proposal 4 – Enable updated information about a child’s immunisation status to be provided at time other than enrolment

Question 20: 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?

Explanation

Currently a parent must provide a child’s vaccination history upon enrolment (whether vaccinated or not), and this section refers to whether this information should be provided more frequently (for example, yearly, or at 4 years of age after all vaccines would have been administered).

Recommended Response



If 'no' or 'unsure', what do you suggest as an alternative for the DoH to obtain updated information regarding a child's immunisation status?

Recommended Response

- The Department of Health already has access to data from the AIR in order to track vaccination rates
- Parents already receive sufficient vaccination reminders
- This proposal imposes an unnecessary burden on services when around 95% of parents already vaccinate their children according to the schedule.

Question 21: Do you agree with the listed advantages (benefits) and disadvantages (costs)?

Explanation

This section refers to the Advantages and Disadvantages for Proposal 4 listed on page 22 of the 'Guiding Questions' document.

Recommended Response



Please provide evidence to support your views, including any likely overall financial impacts

Recommended Response

There is concern that this provision may be misused in future to suspend or cancel the enrolment of incompletely vaccinated children.

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

Recommended Response

No

Questions 22 – 23: Proposal 5 – Offences for which penalties may be issued

Question 22: Do you support the offences for non-compliance?

Explanation

In addition to the proposed new offence and \$10,000 fine for services failing to comply with the proposed vaccination enrolment requirement (see Question 9 above), two additional offences are being proposed:

- (1) an offence for a person giving false or misleading information in respect to information regarding a child's eligibility for exemption status as well as their immunisation status. Proposed penalty is a fine of \$10,000*
- (2) an offence under the Act for a person obstructing, or attempting to obstruct an authorised officer in the performance of their duties under the Act. Proposed penalty for this offence is \$10,000*

See pages 29 – 30 of the Guiding Questions document

Recommended Response



No

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

Recommended Response

No alternative proposal.

Question 23: Do you agree with the listed advantages (benefits) and disadvantages (costs)?

Recommended Response



No

Please provide evidence to support your views, including any likely overall financial impacts

Recommended Response

No suggestions

Questions 24 – 25: Closing Questions - additional proposals or comment

Question 24: 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 and supporting evidence where possible

Recommended Response



No

Western Australia already has a number of strategies in place for increasing vaccination rates. Further regulation, or use of taxpayer funds to promote vaccination cannot be justified.

Question 25: Do you have any additional comments in relation to the proposed Bill to strengthen immunisation enrolment requirements for child care services and kindergarten programs?

Please provide details and supporting evidence where possible

Explanation

In this section, you have the opportunity submit any additional comments/criticisms of (Option B) No Jab No Play which have not been addressed in previous sections.

Suggestions

No suggestions