

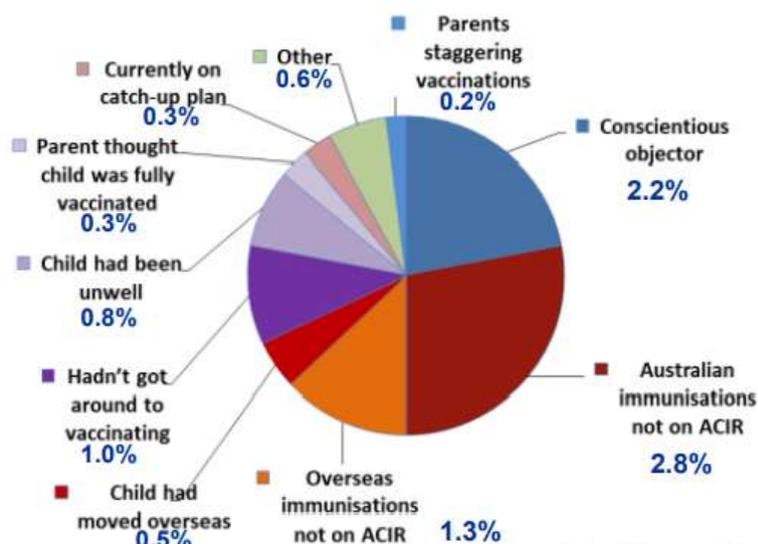
Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019

A summary of the evidence supporting amendments to the Bill

“The true rate of fully immunised children in WA is likely to be closer to 95%”^[1]

- ❖ There is no published evidence that incompletely vaccinated children are creating disease outbreaks in early childhood care and education settings, or that increasing vaccination rates to the national aspirational target of 95% will reduce outbreaks of diseases such as Whooping Cough, which cannot be controlled through herd immunity.^{[2][3]}
- ❖ A regulatory impact assessment conducted by the Department of Health in late 2016, which involved consultation with industry stakeholders, found that a requirement for parents to produce vaccination history/status documentation when enrolling their children (in force in WA since 01 January 2019) provided the best net benefit to cost ratio, when compared with a vaccination requirement.^[4]
- ❖ Dr. Frank Beard from the National Centre for Immunisation Research and Surveillance (NCIRS) argues that there has been too much emphasis on the 95% aspirational target, which is somewhat arbitrary, at the expense of well established disease control and risk management principles.^[5]
- ❖ Vaccination coverage rates are at an historical high in WA with over 93% of one and five year olds recorded as fully vaccinated.^[6]
- ❖ Vaccination coverage for the two year old cohort has been artificially reduced due to changes to the schedule^[6], so should not be relied upon for policy-making decisions.
- ❖ Vaccination coverage in WA is likely to be closer to 95%^[1], due to under-recording in the Australian Immunisation Register.^{[7][8][9]}
- ❖ The A.C.T. and Tasmania, which have not implemented No Jab No Play laws, have the highest vaccination coverage rates in Australia for the one and five year old cohorts respectively.^[10]
- ❖ Vaccination rates in one third of Victorian regions remain below the 95% aspirational target even though a No Jab No Play law has been operating in that state for over three years.^[11] Therefore, it is extremely unlikely that a WA law would increase vaccination rates to 95% in many areas of the state.
- ❖ Socioeconomic disadvantage, social isolation, psychological distress, non-use of formal childcare, and child health issues/concerns are the most important predictors of incomplete vaccination, rather than vaccination objection.^[12]
- ❖ Vaccination objection rates are low and stable.^{[2][12][13]}
- ❖ Laws targeting objectors are punitive rather than effective in increasing vaccination rates.^{[14][15]}
- ❖ Mandatory vaccination groups, such as Light for Riley, are promoting multiple falsehoods, which is unduly influencing vaccination policy across Australia^[16]

Reasons why WA children are not recorded as fully vaccinated^[7]



“It is not in the best interests of children to try to increase one right (health) by denying access to another right (education)”^[17]

- ❖ A blanket No Jab No Play law, without exemptions for conscientious objection, is inconsistent with the Universal Access to Early Childhood Education program.^[18]
- ❖ The Australian Institute of Health and Welfare has emphasised the individual and societal benefits of early childhood education opportunities.^[19]
- ❖ Inclusion, socialisation and education are important social determinants of health.^[20]
- ❖ A blanket No Jab No Play law would be a retrogressive measure which turns back the clock to a time when only the wealthy had access to childcare and kindergarten services, forcing vaccination objectors into relying on potentially unsafe, unregulated services, or out of the workforce or study entirely, and may also threaten the viability of some services.^[21]
- ❖ Human rights law expert, Paula Gerber, has emphasised that No Jab No Play laws, which discriminate against incompletely vaccinated children by withholding access to education, are not in the best interests of children, and are not an appropriate way of trying to increase vaccination rates.^[17]
- ❖ The South Australian Child Development Council described No Jab No Play laws as a blunt policy instrument, which might violate some of the core principles of the Convention on the Rights of the Child.^[22]
- ❖ Queensland’s Acting Commissioner for Children and Young People and Child Guardian submitted to a 2013 parliamentary committee that the parental right to make medical decisions for one’s children without sanction was important, should be preserved, and supported a provision for conscientious objection to vaccination in the proposed No Jab No Play law.^[23]
- ❖ Conscientious objection to vaccination is protected by Article 18 sub-section (1) of the International Covenant on Civil and Political Rights (ICCPR) (right to freedom of religion, thought and conscience).^[24]
- ❖ The authority of governments to infringe this right under sub-section (3) of the ICCPR is limited to necessity, which is not applicable in Western Australia due to the absence of evidence showing that vaccination objection is risking public safety or the rights of others.
- ❖ A blanket No Jab No Play law would over-ride valid consent by way of ‘practical compulsion’.^[15]
- ❖ ‘Practical compulsion’ occurs when parents, who are unable to care for a child themselves due to work or other commitments, and who cannot afford to utilise private care for their child, may have no choice but to have their child vaccinated in order to enrol that child in an early childhood education or care service.^[25]

“We conclude that the evidence does not support a move to an increasingly mandatory approach that could only be delivered through paternalistic, coercive clinical practices”^[15]

- ❖ 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.^[26]
- ❖ The Medical Board of Australia Code of Conduct requires that consent to medical procedures be voluntary.^[27]
- ❖ There is an obvious conflict between these legal obligations and blanket No Jab No Play laws.
- ❖ Reasons for vaccination objection are legitimate and diverse, and include both religious and secular beliefs, as well as concerns about the methodological quality of vaccine science purporting to support vaccine safety and effectiveness.^[28]
- ❖ A blanket No Jab No Play law is not justified when measured against public health ethics principles: (1) benefits/justification, (2) risks, (3) effectiveness, (4) equity and justice, (5) autonomy, (6) reciprocity, and (7) trust.^[29]

“High immunisation rates in Australia mean that the threat of disease transmission posed by vaccine refusal is low — policy responses should be proportionate” [2]

- ❖ The Victorian Council of Civil Liberties (Liberty Victoria) conducted an in-depth analysis of the provisions of the Victorian ‘No Jab No Play’ law (which mirrors the proposed WA law) and concluded that the ‘No Form No Play’ model used in New South Wales at that time, strikes the best balance between the opposing values of promoting the public’s interests and respecting individual autonomy.^[30] This model required registration of a child’s vaccination status before enrolment at childcare or kindergarten facilities (already in effect in WA since 01 January 2019), while still allowing for vaccination objection exemptions.
- ❖ The Royal Australasian College of Physicians (RACP), which is a professional medical college of over 17,000 physicians (including specialist paediatricians) and 8,000 trainee physicians, supported the retention of conscientious objection exemptions in New South Wales.^[31] In South Australia, the RACP proposed that compulsory documentation of vaccination status (already in effect in WA since 01 January 2019), combined with the exclusion of incompletely vaccinated children, only when there is a case or outbreak of vaccine-preventable disease, was sufficient from a public health perspective.^[32] In a recent letter to the South Australia Health Minister, which was tabled in the parliament, the RACP called for a moratorium on any new No Jab No Play laws, pending an independent review of the laws operating in other states.^[33]

“Regulatory approaches to vaccine rejection should be firm but fair, enabling hard-to-reach exemptions that promote engagement, not alienation from the health system” [34]

- ❖ Navin and Largent (2017) evaluated three regulatory approaches to non-medical exemptions (as conscientious objection exemptions are sometimes called in other developed countries): (1) elimination, (2) prioritising religion, and (3) inconvenience. They concluded that non-medical exemptions should be available to parents who object to vaccination for both religious and secular reasons, and that the best way to decrease exemption rates is to make the exemption application process more burdensome for parents (inconvenience model).^[35]
- ❖ The inconvenience model is also favoured by Australian experts, who argue that regulatory approaches to vaccine rejection should be firm but fair, enabling hard-to-obtain exemptions that promote engagement, not alienation from the health system.^[34]
- ❖ Consistent with the inconvenience model, these experts support yearly registration of vaccination objections with a doctor or vaccination provider until the child turns 5 years^[34], instead of once only registration as was operating between 1998 and 2015 inclusive with respect to federal family assistance legislation^[36], and between 2014 and 2017 inclusive with respect to the New South Wales No Jab No Play law.^{[37] [38]}
- ❖ The inconvenience model achieves a balance between the interests of governments wishing to increase vaccination rates on the one hand, and the legitimate concerns of vaccination objectors, on the other
- ❖ A ‘No Jab No Play’ law which includes yearly registration of vaccination objections, would serve as a reminder to those parents who are not directly opposed to vaccination to get their children up-to-date, while preserving the medical autonomy of those parents, who have strong objections against vaccination or who selectively vaccinate their children
- ❖ In a liberal democracy such as Australia, citizens rely on their members of parliament to rise above the rhetoric of lobbyists by enacting laws which are proportionate and the least rights restrictive
- ❖ The evidence strongly supports the provision of conscientious objection exemptions, with yearly registration, in the proposed No Jab No Play law in Western Australia, and from a legislative perspective, is the simplest way to make the proposed law more proportionate. An alternative is to exempt Family Day Care and 3 and 4 year old kindergarten services from the vaccination requirement.

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