



AbSec

NSW Child, Family & Community
Peak Aboriginal Corporation

Review of the NSW Working with Children Check

Strengthening safeguards and protections
for children and improving outcomes for
Aboriginal children and communities.

February 2026



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AbSec is the peak organisation advocating for the rights, safety, and wellbeing of Aboriginal and Torres Strait Islander children, young people, families, and communities in New South Wales.

As an Aboriginal-led organisation, we champion self-determination and work towards a child and family system that is culturally safe, community-driven, and responsive to the needs of Aboriginal and Torres Strait Islander peoples.

AbSec leads policy reform, strengthens the capacity of Aboriginal Community-Controlled Organisations (ACCOs), and ensures that Aboriginal and Torres Strait Islander children and young people remain connected to family, community, and culture. We are a key member of the NSW Coalition of Aboriginal Peak Organisations (NSW CAPO) and the primary organisation responsible for Target 12 under Closing the Gap.

Through advocacy, research, and sector leadership, AbSec works to address the disproportionate representation of Aboriginal and Torres Strait Islander children in out-of-home care and promote holistic, community-led approaches to child and family wellbeing. Our commitment is to ensuring that Aboriginal and Torres Strait Islander children and young people grow up strong in culture, identity, and connection.

Our vision is that all Aboriginal and Torres Strait Islander children and young people are looked after in safe, thriving Aboriginal and Torres Strait Islander families and communities, raised strong in spirit and identity, with every opportunity for lifelong wellbeing and connection to culture, and surrounded by holistic supports.

In working towards this vision, we are guided by these principles:

- Acknowledging and respecting the diversity and knowledge of Aboriginal and Torres Strait Islander communities.
- Acting with professionalism and integrity in striving for quality, culturally responsive services and supports for Aboriginal and Torres Strait Islander families and communities.
- Underpinning the rights of Aboriginal and Torres Strait Islander people to develop our own processes and systems for our communities, particularly in meeting the needs of our children, young people, families and carers.
- Being holistic, integrated and solutions-focused through Aboriginal and Torres Strait Islander control in delivering outcomes for Aboriginal and Torres Strait Islander children, young people, families and communities.
- Committing to a future that empowers Aboriginal and Torres Strait Islander families and communities, representing our communities, and the agencies there to serve them, with transparency and drive.

Acknowledgement of Country

AbSec acknowledge the Gadigal and Wangal People of the Eora Nation, the land on which our office stands, and pay respect to Elders past, present and emerging. We acknowledge the Elders, leaders and advocates within our sector and pay our respects to them as knowledge holders within this space and every space.

AbSec acknowledges the Stolen Generations who never came home and the ongoing impact of government policy and practice on Aboriginal and Torres Strait Islander children, young people and families.

We extend that respect to all Aboriginal and Torres Strait Islander peoples across the lands we serve.

Executive summary

AbSec welcomes the New South Wales Office of the Children’s Guardian’s (OCG) invitation to provide input on the review of legislation underpinning the Working with Children Check (WWCC). We welcome the crucial opportunity to address the inequities inherent in the current process for Aboriginal and Torres Strait Islander people. AbSec’s recommendations seek to align the statutory responsibilities of the OCG and the NSW Government with the needs of Aboriginal Community Controlled Organisations (ACCOs) and the safety of Aboriginal and Torres Strait Islander children, families and communities, including by removing unnecessary barriers that limit Aboriginal and Torres Strait Islander people from seeking roles involving children, including as family and kinship carers. The recommendations aim to strengthen the WWCC system’s safety, transparency and cultural responsiveness while upholding the distinct cultural rights of Aboriginal and Torres Strait Islander peoples.

AbSec supports the purpose of the WWCC as one safeguard within a broader child-safe system. However, we emphasise that WWCCs cannot be relied upon in isolation. The scheme must actively address the impacts of systemic racism in the criminal justice and child protection systems, and any reforms must facilitate Aboriginal and Torres Strait Islander kinship care, workforce participation and self-determination.

Recommendations

- The OCG must include Aboriginal and Torres Strait Islander community members with relevant expertise in all OCG's internal review/appeal and advisory mechanisms.
- The OCG must prioritise timely completion of WWCCs and ensure any changes to the WWCC system do not impair the OCG's ability to guarantee all WWCCs are completed within 30 days of application.
- The OCG should develop, in partnership with AbSec and other Aboriginal and Torres Strait Islander community leaders and organisations, a more nuanced, trauma-informed and culturally safe approach to risk assessment that effectively distinguishes between genuine child-safety risk and criminalisation arising from systemic bias.
- The OCG must review the risk assessment process for household members of Aboriginal and Torres Strait Islander relative and kinship carers and ensure where such risk assessments are required these are processed within 30 days.
- WWCC requirements for kinship and relative carers should be removed, with relevant local Aboriginal governance groups such as Aboriginal Community Controlled Mechanisms and Local Decision-Making panels empowered to provide that oversight and accountability, given Aboriginal and Torres Strait Islander communities hold knowledge about who is safe to provide care to Aboriginal and Torres Strait Islander children.
- The definition of child-related work must be clarified to explicitly include written, oral and electronic contact with a child or young person where that contact is a usual and more than an incidental part of the role.
- Drivers of point-to-point passenger vehicles should be required to obtain WWCC clearance.

Barriers faced by Aboriginal and Torres Strait Islander applicants

Aboriginal and Torres Strait Islander people continue to experience structural barriers when applying for a WWCC. These barriers are well known and have been consistently raised by ACCOs and other Aboriginal and Torres Strait Islander community members throughout AbSec consultations to inform this submission. These include:

- difficulties obtaining or replacing identification documents

- fears associated with how criminal records are interpreted
- challenges navigating online application systems which result in Aboriginal and Torres Strait Islander community members abandoning applications
- limited access to culturally appropriate information, and
- the disproportionate impact of over-policing and criminalisation. For instance, in relation to the chronic misidentification of Aboriginal and Torres Strait Islander women as perpetrators of domestic and family violence.

Identification requirements are a particularly persistent issue. ACCOs frequently support applicants who do not have access to original identity documents, who have had documents lost or damaged over time, or who have previously laminated birth certificates that the OCG will not accept. These barriers can delay or derail applications entirely, particularly for kinship carers and community members in regional and remote areas.

AbSec acknowledges and welcomes the OCG efforts to prioritise Aboriginal and Torres Strait Islander applicants, including improved processing times for authorised carers. However, further work is required to address upstream barriers, including practical support with identification and early access to legal advice where records may trigger a risk assessment.

Criminal records, risk assessment and systemic bias

A central concern for AbSec is the way criminal records are interpreted within the WWCC scheme, particularly for Aboriginal and Torres Strait Islander people whose contact with the justice system is a result of systemic racism rather than genuine child safety risk.

ACCOs and legal services consistently report cases where historic, minor or no longer relevant offences continue to operate as barriers to clearance. This includes historical driving offences, low level matters from many years ago, and offences that reflect outdated laws rather than contemporary understandings of harm. For example, the close in age defence for sexual relations involving young people was only legislated for in 2018¹. In these circumstances, weight should not be given to such records. Otherwise, suitable carers and workers are excluded from roles that are critical to Aboriginal and Torres Strait Islander children's wellbeing.

Particularly concerning is the treatment of domestic and family violence related records. Aboriginal and Torres Strait Islander women victim-survivors are disproportionately misidentified as perpetrators of domestic and family violence.² We note that even in circumstances where the matter is dismissed by the magistrate; related child protection

¹ New South Wales, Crimes Act 1900 [s.80AG](#)

² Victorian Government, [Accurate Identification of the Predominant Aggressor](#)

and police records relating to the woman may not be updated to reflect this disposition in a timely manner, if ever. Where these records are not assessed with appropriate cultural, gendered and contextual understanding, the WWCC scheme reinforces systemic injustice and excludes Aboriginal and Torres Strait Islander women from caring roles, employment and leadership within their own communities, with downstream impacts on children, families and community safety.

AbSec strongly supports a more nuanced, trauma-informed and culturally safe approach to risk assessment that distinguishes between genuine child safety risk and criminalisation arising from systemic racism. Without this, the scheme risks doing harm to the very communities it is intended to protect and undermines government commitments including Closing the Gap and the Aboriginal and Torres Strait Islander Placement Principle (ATSICPP).

Review and accountability following the removal of NCAT appeals

The removal of external review through the NSW Civil and Administrative Tribunal and its replacement with internal review processes represents a significant shift in accountability for WWCC decisions. While AbSec recognises the intent to streamline processes and centre child safety, confidence in the fairness, independence and transparency of decision-making is critical.

For Aboriginal and Torres Strait Islander applicants, WWCC decisions can determine whether they are able to care for family members, participate in community life, and engage in paid employment. In this context, internal review processes must be robust independent, transparent and culturally safe.

The OCG must involve relevant external experts to support their internal review process. AbSec recommends the inclusion of Aboriginal and Torres Strait Islander community members with relevant expertise in any internal review or advisory mechanisms to ensure decisions are informed by cultural context, lived experience and an understanding of systemic racism. This will build trust in the system and encourage applicants to seek review.

Clarifying child-related work and contemporary forms of contact-related work and contemporary forms of contact

AbSec supports clarifying the definition of child-related work to explicitly include written, oral and electronic contact where that contact is a usual and more than an incidental part of the role. This reflects contemporary service delivery, particularly in education, health, counselling and community services, where engagement with children increasingly occurs online or through digital platforms.

Greater clarity in the definition will equip workers, employers and volunteers with better understanding of their obligations, reduce uncertainty and support more consistent application of the scheme. AbSec considers this clarification to be a proportionate and sensible reform that strengthens child safety without imposing unnecessary regulatory burden.

Point-to-point transport services

AbSec supports extending WWCC requirements to drivers of point-to-point transport services, including taxis and rideshare vehicles, where children may travel unaccompanied. Children using these services are often alone in confined spaces with adults who exercise a high degree of control over the interaction. This is an elevated risk environment that is not adequately addressed under current arrangements.

While AbSec acknowledges the scale of the passenger transport workforce and the need for careful implementation, this reform is consistent with the intent of the WWCC scheme and with approaches already adopted in other jurisdictions. Specifically, drivers providing point-to-point passenger transport services are already required to obtain the equivalent of a Working with Children or Working with Vulnerable People check in jurisdictions including South Australia, Tasmania and the Australian Capital Territory³. Aligning NSW with these jurisdictions promotes greater national consistency while strengthening safeguards for children travelling unaccompanied.

Kinship care, carers and exemptions

Kinship care is fundamental to the safety, wellbeing and cultural identity of Aboriginal and Torres Strait Islander children and work is needed to uplift the number of kinship carers. AbSec supports the removal of WWCC requirements for Aboriginal and Torres Strait Islander kinship and relative carers. AbSec recommends that local Aboriginal governance groups such as Tribal Councils, Local Decision-Making groups, Aboriginal Community Controlled Mechanisms (ACCMs) and grandmothers groups provide relevant oversight and accountability. Aboriginal and Torres Strait Islander community members know who is safe to care for children and young people in their community and make decisions on the safety and wellbeing of their children and young people. The unique connection of Aboriginal and Torres Strait Islander people to their communities, place and culture must be upheld including by respecting their cultural authority to determine who their children are safe with, rather than reinforcing patterns of disproportionate surveillance and intervention.

Removing WWCC for Aboriginal and Torres Strait Islander relative and kin carers would also contribute to the NSW government's commitment to share decision-making

³ South Australian Government, [Taxi and Passenger Transport Driver accreditation](#)

authority with Aboriginal and Torres Strait Islander people – Priority Reform 1 of the NSW Closing the Gap Agreement⁴.

More generally, there must be a more nuanced approach to the requirements for WWCC to members of a household. In preparing this submission, ACCOs gave examples of instances where a household member with dementia has historical offences which exclude that household member from being able to have a WWCC and so the family is unable to provide care to kin. Similarly, there are instances where a child member of the household who poses no risk to any family member would need to move out of the home so that the family could care for their kin.

These types of examples were considered by Professor Davis in the 2019 Family Is Culture report. The report outlined key barriers to the safe and stable placement of Aboriginal and Torres Strait Islander children with relatives and kin including:

1. Grandparents may be deemed unsuitable carers because they have previously had children removed when they were younger or because they are viewed by the department as being responsible for their child's current situation.
2. Strict legislative time frames for lodging of applications for carer authorisation and that prospective Aboriginal carers were not given sufficient, or often any, support to navigate the carer application process.
3. Criteria for carer authorisation do not take into account that Aboriginal people are more likely to have 'had a run in with the law' due to aspects such as socioeconomic disadvantage, over policing and trauma.
4. Formal probity checks required of potential carers should include consideration of the introduction of a discretion to enable a person to care for a child (or continue to care for a child), despite not satisfying or completing the formal probity checks where to do so would be in the best interests of the child.
5. Health checks should only be required as part of formal probity checks for carers in cases where there is existing evidence (beyond age alone) to indicate that a potential carer's physical or mental health may impede that person's ability to care for a child.
6. Risk assessments of household members of Aboriginal relative and Kinship carers presented significant issues with several case studies outlining cases where lengthy processing time of household member risk assessments resulted in Aboriginal and Torres Strait Islander children being placed with non-Aboriginal foster carers⁵.

⁴ New South Wales Government, [NSW Closing the Gap Partnership Agreement](#)

⁵ [Family is Culture](#), 2019, pp.292-297

Exemptions, police and workplace settings

AbSec supports reconsidering exemptions within the WWCC scheme, including exemptions for police officers. While police are subject to other background checking processes, aligning police involvement in child-related work with the principles of the WWCC scheme would strengthen consistency and public confidence.

AbSec is also broadly supportive of exploring whether coworkers and supervisors of employed children should hold a WWCC, particularly in higher-risk settings. However, any expansion of coverage must be accompanied by careful consideration of system capacity, processing times and unintended consequences, to ensure that reforms do not overwhelm the scheme or delay applications for those in critical caring roles. We note particularly that while parents who formally employ their child/ren are exempt from current WWCC requirements, this is not the case for close relatives such as grandparents and uncles and aunties. It is unclear what additional benefit there is from expecting family members in these circumstances to require a WWCC.

Timeliness, transparency and data

Across all consultations informing this submission, delays in risk assessments and reviews were raised as a significant concern. Prolonged uncertainty can prevent carers from being approved, delay employment, and disrupt care arrangements for children. While many of the reforms proposed will improve safety for children and young people this must be balanced with the capacity of the OCG to fulfil these additional requirements while also processing WWCC's in a timelier manner.

AbSec supports the introduction of clear service standards for risk assessments and internal reviews, alongside greater transparency through the publication of de-identified data on processing times, refusals, cancellations and review outcomes. Transparency is essential to building trust and ensuring accountability. We note the Royal Commission into Institutional Responses to Child Sexual Abuse recommended that WWCC applications generally be processed within five working days, or 21 working days 'for more complex cases. Considering this, the OCG should commit to complete initial WWCC decision making for all applicants within one month of application. Failing to do so should result in a positive WWCC decision for the applicant.

Conclusion

As stated, AbSec supports the purpose of the WWCC as one safeguard within a broader child-safe system. It is crucial that reforms facilitate Aboriginal and Torres Strait Islander kinship care, workforce participation and self-determination.

Specifically, the OCG must apply more culturally safe, nuanced approaches that overcome barriers to Aboriginal and Torres Strait Islander people seeking a WWCC that

do not enhance child safety. For instance, in relation to WWCC requirements for relative and kin carers and household members. This should include the OCG developing, in partnership with AbSec and other Aboriginal and Torres Strait Islander community leaders and organisations, a new approach to risk assessment and making use of bodies such as ACCMs and LDMs that enhance Aboriginal and Torres Strait Islander communities' oversight and accountability.

The OCG must ensure that internal review processes are trusted and informed by relevant external expertise. At a minimum, the OCG must include Aboriginal and Torres Strait Islander community members with relevant expertise in all OCG's internal review/appeal and advisory mechanisms.

The OCG must also prioritise timely completion of WWCCs and ensure any changes to the WWCC system do not impair the OCG's ability to guarantee all WWCCs are completed within 30 days of application.

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Purpose of the Submission

This submission is prepared specifically for the [New South Wales Government Review of the Working with Children Check](#) and is intended to contribute to the deliberations of this body. It should not be used for any other purpose without the express consent of AbSec.

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