

**United Workers Union**

**Submission to Review of the *Child Protection (Working with Children) Act 2012* by the Office of the Children's Guardian (OCG)**

13 March 2026

## Contents

Acknowledgement to Country.....	3
About the United Workers' Union.....	3
Introduction .....	4
<b>UWU's recommendations</b> .....	<b>5</b>
Issues raised in the Discussion Paper.....	7
Issue 3.5 Requiring co-workers and supervisors of employed children to have a WWCC. .....	7
Issue 4.1 Renewal of WWCC clearances and expiry periods.....	8
Issue 4.2 Mandatory training before receiving a WWCC. ....	8
Issue 4.3 Eligibility to work while an application is assessed: 'Working on an application'. .....	9
Issue 5.2 Matters leading to risk assessment or disqualification. ....	10
Issue 5.3 Domestic and Family Violence. ....	10
Issue 5.4 Extending the time limits on Interim Bars.....	11
Issue 6.2 Clarifying and expanding the scope of employers subject to WWCC obligations. .....	11
Issue 7.1 Additional powers to investigate and enforce compliance with WWCC requirements.....	12
Issue 8.1 Prohibition on lodging an application within 12 months of termination of a WWCC application. ....	13
Issue 8.2 Other technical and miscellaneous amendments to the WWC Act. ....	13
Conclusion.....	15

## **Acknowledgement to Country**

The United Workers' Union is a national trade union. We acknowledge and respect the continuing spirit, culture and contribution of Traditional Custodians on the lands where we work, and pay respects to Elders – past, present and emerging. We extend our respects to Traditional Custodians of all the places that United Workers' Union members live and work around the country.

## **About the United Workers' Union**

United Workers Union ('**UWU**') is a powerful union with 150,000 workers across the country from more than 45 industries and all walks of life, standing together to make a difference. Our work reaches millions of people every single day of their lives. We feed you, educate you, provide care for you, keep your communities safe and get you the goods you need. Without us, everything stops. We are proud of the work we do – our early childhood educators are shaping the future of the nation one child at a time; supermarket logistics members pack food for your local supermarket and farms workers put food on Australian dinner tables; hospitality members serve you a drink on your night off; aged care members provide quality care for our elderly and cleaning and security members ensure the spaces you work, travel and educate yourself in are safe and clean.

## Introduction

UWU welcomes the Office of the Children’s Guardian (OCG) Review into how the Working with Children Check (WWCC) system supports the delivery of safe, high-quality child-related work. Our members are committed to continuous improvement in child safety and support reforms that strengthen the WWCC while ensuring it remains fit-for-purpose.

It is essential that the OCG’s regulatory focus remains on its core function: assessing WWCC applications and identifying individuals who may pose a risk to children in child-related work. UWU is concerned that the breadth of issues raised in the Discussion Paper risks expanding the OCG’s responsibilities beyond what its current resourcing can sustain. The OCG’s 2024–25 Annual Report shows reductions in compliance checks, investigations and audits due to staff shortages and reallocation of resources.<sup>1</sup> UWU members are worried that an overstretched OCG may be unable to undertake timely and robust assessments of WWCC applications—creating delays in workforce supply and compromising scrutiny in a system designed to protect children.

Resourcing pressures are of even greater concern now that applicants no longer have access to external merits review at the NSW Civil and Administrative Tribunal (NCAT). UWU continues to have significant concerns about the removal of the external review process. Internal review by the OCG is now the sole avenue for a decision to be disputed. Initial information on the internal review process suggests it is a lengthy process, and that workers can expect to wait a significant amount of time to have their application resolved. UWU remains concerned about the absence of an external, independent review mechanism, given its importance in ensuring procedural fairness for workers.

The Discussion Paper rightly acknowledges barriers faced by First Nations people in the WWCC process, including identification requirements, digital accessibility, historical criminalisation, and the need for culturally appropriate communication. UWU supports efforts to reduce these barriers but cautions that poorly resourced or administratively intensive reforms may unintentionally prolong delays or diminish culturally nuanced engagement—again affecting procedural fairness. Similar risks exist for applicants from culturally and linguistically diverse (CALD) backgrounds who may require tailored communication or assistance with identity documentation. Further, cost remains a barrier for workers in low paid sectors – employees and prospective employees should be able to obtain a WWCC for free, or alternatively, there should be a requirement on the employer to pay the fee.

UWU members in early childhood education and care (ECEC), school cleaning and other child-related sectors share the OCG’s strong commitment to child safety. A strengthened

WWCC system is essential to this goal. However, reforms must ensure that the OCG can deliver its core responsibilities efficiently, fairly and with adequate resourcing.

The remainder of this submission will address selected issues and questions raised by the Discussion Paper, and UWU's recommendations.

### **UWU's recommendations**

1. The NSW Government must undertake further targeted consultations with unions before expanding the scope of the WWCC system into areas not regarded as child-related work, but with workers who might be aged under 18.
2. The OCG should be able to extend the period of a holder's WWCC clearance.
3. Mandated child safety training should be free for all current and prospective employees and provided by employers on paid time. The content should be of appropriate length to cover key issues, but not overly burdensome on workers in terms of time and their own family and caring responsibilities. Training should be available in ways that overcome language, internet access, and geographic barriers.
4. Because ECEC workers employed in services regulated under the Education and Care Services National Law already face new requirements to complete national child safety training, they should be excluded from the proposed mandatory training requirement
5. UWU does not oppose workers having to delay working in a child-related role while waiting for an assessment where there has been a previous refusal or a previous cancellation, provided that robust and procedurally fair review mechanisms are available for workers.
6. UWU broadly supports efforts to align NSW WWCC standards with national standards. However, this alignment should not lead to NSW automatically disqualifying workers or adding risk assessments for additional offences that are not related to children.
7. Domestic violence offences should be considered in risk assessments carried out under the WWCC Act. However, a person being subject to an interim or final ADVO should not in itself be a trigger for a risk assessment. It is a breach of an ADVO that should be considered a trigger.
8. There should be no extension of the current 12-month time limit for interims bars.

9. UWU supports the definition of employers subject to WWCC obligation being clarified to include both host employers and labour hire.
10. UWU does not oppose the OCG having additional powers to investigate and enforce compliance with WWCC requirements, provided workers have access to procedural fairness and a right to representation. UWU requests more information and clarification about how the proposed 'right of entry' and 'power of attendance' will be implemented by the OCG.
11. UWU opposes the premature publication of information about the investigation or prosecution that risks serious reputational harm to workers.
12. UWU opposes the automatic 12-month prohibition on lodging an application.
13. UWU supports applicants under an interim bar for an OCG process being able to withdraw their application and suspend the process. UWU notes that information regarding the interim bar is still available to interstate screening agencies.
14. UWU supports workers being able to initiate a pause on a risk assessment, rather than only the OCG. UWU supports risk assessments being able to be paused in the context of charges and investigations. The OCG should have such a power to initiate such a pause if it cannot continue its work because of an external investigation. UWU acknowledges this is a complex situation. The worker involved could be unable to take up other employment opportunities while they await the conclusion of investigations, to the detriment of themselves and their families. On balance, however, there is value to the proposal that risk assessments can be paused while criminal matters are proceeding.
15. UWU supports clearer guidance on required information for risk assessments but opposes limiting submissions to only OCG-requested material. Workers and representatives should be free to provide any other information relevant to a fair outcome.
16. UWU opposes the automatic cancellation of a clearance where the holder fails to or incorrectly provides the holder's names, former names or known aliases. As previously outlined, migrant or First Nations workers may have names with different possible spelling in English, or they may use 'anglicised' names for ease of communication. Such a cancellation should only occur if it can be demonstrated that someone has deliberately withheld their true name with ill-intent.

17. UWU supports the Royal Commission's recommendations to standardise the terminology for key WWCC decisions and acknowledges the benefits it would provide for information sharing. UWU recommends that OCG consult with sector unions about the best approach to standardisation that also provides clarity for workers.

## **Issues raised in the Discussion Paper**

### ***Issue 3.5 Requiring co-workers and supervisors of employed children to have a WWCC.***

#### **UWU response**

UWU supports stronger protections for younger workers, many of whom are our members in areas such as hospitality, and experience issues such as workplace sexual harassment at unacceptable rates. However, we have concerns about the expansion of WWCC to areas outside of child-related work. Requiring WWCCs in these industries could result in:

- longer assessment delays in child-related work for which a WWCC is critical, such as ECEC and school cleaning, resulting in workers being unable to commence employment and therefore exacerbating workforce shortages.
- low paid workers facing cost barriers from application fees, additional administrative burdens, and a lack of internet access. This could make the system particularly difficult for workers such as those from CALD backgrounds for whom English is not their first language, as well as First Nations workers who may need to make their initial applications from remote areas.
- First Nations workers facing additional barriers to employment, as their disproportionately high rates of contact with the criminal justice system can increase the likelihood of a risk assessment being triggered when applying for a WWCC clearance.

#### **Recommendation**

The NSW Government must undertake further targeted consultations with unions before expanding the scope of the WWCC system into areas not regarded as child-related work, but with workers who might be aged under 18.

***Issue 4.1 Renewal of WWCC clearances and expiry periods.***

*Question 13. Should the Children’s Guardian be able to extend the period of a holder’s WWCC clearance in special circumstances?*

**UWU Response**

UWU supports WWCC holders being able to obtain an extension of time for the period of their clearance. This will benefit workers who experience issues such as those set out in the Discussion Paper e.g. loss or expiry of identity documents, or circumstances beyond their control, such as illness, hospitalisation, or suffering a significant loss. The last point could be especially significant for First Nations people who are culturally obliged to participate in ‘Sorry Business’ of traditional funeral ceremonies and practices.

**Recommendation**

The OCG should be able to extend the period of a holder’s WWCC clearance.

***Issue 4.2 Mandatory training before receiving a WWCC.***

*Question 14. Should mandatory child abuse prevention education and training be required before receiving a WWCC?*

**UWU response**

UWU does not oppose an education and training requirement in child abuse prevention being included in the WWCC application process. However, mandated training should be free for all current and prospective employees and provided by employers on paid time. Training content should be the appropriate length to cover key issues, but not overly burdensome on workers in terms of time and their own family and caring responsibilities. The training should be available in ways that overcome language, internet access, and geographic barriers. Government should support this training through providing community hubs or government facilities where face to face training could take place.

Because ECEC workers employed in services regulated under the Education and Care Services National Law already face new requirements to complete national child safety training, they should be excluded from this proposed training requirement. For example, National Child Safety foundation training must be completed within 14 days of commencing employment in ECEC, and before employees begin working directly with children. This is paid for by the employer.<sup>2</sup> For ECEC workers, having to do similar training at their own expense before they can receive a WWCC clearance would be a financial and administrative burden.

It would create a barrier to commencing work in the sector at a time when the sector needs more workers, and would disproportionately impact those on lower incomes, without access to technology, and those whose first language is not English.

### **Recommendation**

Mandated child safety training should be free for all current and prospective employees and provided by employers on paid time. The content should be of appropriate length to cover key issues, but not overly burdensome on workers in terms of time and their own family and caring responsibilities. Training should be available in ways that overcome language, internet access, and geographic barriers.

Because ECEC workers employed in services regulated under the Education and Care Services National Law already face new requirements to complete national child safety training, they should be excluded from the proposed mandatory training requirement.

### ***Issue 4.3 Eligibility to work while an application is assessed: 'Working on an application'.***

*Question 17. Should a person who has been previously refused a WWCC clearance, or whose clearance has been cancelled no longer be entitled to work on an application while their risk assessment is pending?*

### **UWU response**

UWU supports the proposition that a person previously refused a WWCC clearance, or whose clearance has been cancelled, should have to wait for their risk assessment to be concluded before working in a child-related field.

However, the underlying issue with such a prohibition is that there needs to be confidence that WWCC decisions are being made with procedural fairness. This includes having fair rights for the review of decisions. NSW has removed the ability to seek an external review of WWCC decisions through the NCAT, so reviews can only occur internally. This puts into question the fairness of WWCC decision making processes, which in the case of this proposal, would impact a worker's ability to earn an income while their WWCC application is being considered.

### **Recommendation**

UWU does not oppose workers having to delay working in a child-related role while waiting for an assessment where there has been a previous refusal or a previous cancellation, provided that robust and procedurally fair review mechanisms are available for workers.

### **Issue 5.2 Matters leading to risk assessment or disqualification.**

*Question 18. Should all offences in Standard 15 of the WWCC National Standards be included in Schedule 2 as disqualifying offences?*

*Question 19. Should all the disqualifying and presumptively disqualifying offences in the NDISWC scheme be included as disqualifying offences in Schedule 2? Or should offences only be included in Schedule 2 if they are child-related?*

#### **UWU response**

UWU supports more alignment between the NSW WWC Act, and WWCC National Standards. Any steps taken to achieve this alignment, however, should be mindful that some national standards could act to exclude workers who are currently aligned with the NSW standards. This is particularly the case where national standards presumptively disqualify people who have committed certain offences against adults (such as drug trafficking), while in NSW the same offence might trigger a risk assessment only if children have been exposed to drug related activity.

#### **Recommendation**

UWU broadly supports efforts to align NSW WWCC standards with national standards. However, this alignment should not lead to NSW automatically disqualifying workers or adding risk assessments for additional offences that are not related to children.

### **Issue 5.3 Domestic and Family Violence.**

#### **UWU response**

UWU supports domestic and family violence offences being considered in risk assessments carried out under the WWCC Act. In respect of Apprehended Domestic Violence Orders (ADVOs), someone being subject to an ADVO should not in itself be a trigger for a risk assessment under the WWCC Act. What should be considered a trigger is a *breach* of the ADVO. This should be regardless of whether it is an interim or a final order.

#### **Recommendation**

Domestic violence offences should be considered in risk assessments carried out under the WWCC Act. However, a person being subject to an interim or final ADVO should not in itself be a trigger for a risk assessment. It is a breach of an ADVO that should be considered a trigger.

#### ***Issue 5.4 Extending the time limits on Interim Bars.***

*Question 26. Should the WWC Act be amended to allow the Children's Guardian to extend the expiration of an interim bar in exceptional circumstances?*

#### **UWU response**

UWU is opposed to extending the current time limit on the interim bar. As the focus on child-safety rightfully increases, but its resources are not increased to match, the OCG may find it increasingly difficult to investigate matters related to interim bars in the allocated time. It is therefore important that the requirement to reach a conclusion within 12 months remains in place. The power to extend the time limit, even in exceptional circumstances, could result in workers waiting too long for determinations and being disadvantaged for both their incomes, and their future careers in child-related work. Twelve months should be enough time for the OCG to decide on risk. If it is not sufficient, the OCG needs to request adequate funding from government to ensure investigations are carried out in a timely manner.

#### **Recommendation**

There should be no extension of the current 12-month time limit for interims bars.

#### ***Issue 6.2 Clarifying and expanding the scope of employers subject to WWCC obligations.***

*Question 28. Should the definition of employer be clarified to include both placement agencies (an agency that supplies an individual to an organisation to perform work) and host organisations (the organisation for whom the worker performs work), even if the host organisation has no direct employment or contractual relationship with the worker?*

*Question 29. Should the WWC Regulation specify that labour hire agencies are placement agencies?*

#### **UWU response**

UWU supports clarifying who constitutes the employer in child-related work. We are concerned that the complications of labour hire arrangements create the risk that host employers may attempt to contract themselves out of child safety obligations by using labour hire. Therefore, both host employers and labour hire agencies should have the same obligations in respect of child safety.

#### **Recommendation**

UWU supports the definition of employers subject to WWCC obligation being clarified to include both host employers and labour hire.

***Issue 7.1 Additional powers to investigate and enforce compliance with WWCC requirements.***

*Questions 33. Do you think that the WWC Act should allow for the OCG to have the following powers to assist in monitoring and investigating compliance with the WWC Act:*

- a. right of entry to a place without consent*
- b. power to require attendance.*
- c. power to issue public warning statements?*

*Question 34. Should the OCG's current implied powers of entry to premises with the occupier's consent be clarified?*

**UWU response**

UWU does not oppose in principle the OCG having more powers to investigate and enforce WWCC requirements, provided workers have access to procedural fairness, including a right to representation. The 'right of entry' concept as applied here is unclear. There needs to be clarity about whether it is a power to enter somebody's home, or a power to enter a workplace where child-related work is conducted. The purpose of 'entry' also needs to be explained, particularly if it impacts the fair process of an ongoing investigation into a worker. Similarly, a power to require attendance raises issues about whether the person attending has a right to representation (such as from their union), and a legal right against self-incrimination.

A power to issue 'public warning statements' also raises problems of procedural fairness, and the premature disclosure of information in an investigation or prosecution. Prosecution proceedings against an individual may be withdrawn, dismissed, or result in a finding of not guilty. However, someone who was not convicted, but had their prosecution publicised, could have their reputation, and relationships with family, friends, work colleagues, and future employers, irreparably damaged. Their mental wellbeing may also suffer.

Given these risks from premature disclosure, UWU supports publication about a prosecution only after a conviction is secured and a penalty determined.

**Recommendation**

UWU does not oppose the OCG having additional powers to investigate and enforce compliance with WWCC requirements, provided workers have access to procedural fairness, including a right to representation. UWU requests more information and clarification about how the proposed 'right of entry' and 'power of attendance' will be implemented by the OCG.

UWU opposes the premature publication of information about the investigation or prosecution that risks serious reputational harm to workers.

***Issue 8.1 Prohibition on lodging an application within 12 months of termination of a WWCC application.***

**UWU response**

Currently the OCG may terminate a person's application for WWCC clearance for reasons such as failing to provide, or incorrectly providing, their full name, former name, or known aliases, or if they make a duplicate application, or if they fail to provide further information within 3 months after a request by the OCG.

UWU notes that many workers in child-related work from migrant or First Nations backgrounds may use a variety of names or aliases. This is because they may have names with different possible spellings in English, or they may use 'anglicised' names for ease of communication but may not match other identity documents. It is also possible for workers without reliable internet access to make duplicate applications by accident. UWU also notes that First Nations workers in remote communities may not always have access to regular communications and thus might miss requests from the OCG for further information. For all these workers, a 12-month prohibition will be punitive and unfair. Where there are workers knowingly or deliberately withholding their true names with ill-intent, the OCG should investigate these as specific cases, rather than enforcing a general prohibition.

**Recommendation**

UWU opposes the automatic 12-month prohibition on lodging an application.

***Issue 8.2 Other technical and miscellaneous amendments to the WWC Act.***

*Enabling applicants or holders subject to an interim bar to withdraw or surrender their application or clearance.*

**Recommendation**

UWU supports applicants under an interim bar for an OCG process being able to withdraw their application and suspend the process. UWU notes that information regarding the interim bar is still available to interstate screening agencies.

*Enabling risk assessments for pending charges or investigations to be paused until the charges or investigations have been finalised.*

### **Recommendation**

UWU supports workers being able to initiate a pause on a risk assessment, rather than only the OCG. UWU supports risk assessments being able to be paused in the context of charges and investigations. The OCG should have such a power to initiate such a pause if it cannot continue its work because of an external investigation. UWU acknowledges this is a complex situation. The worker involved could be unable to take up other employment opportunities while they await the conclusion of investigations, to the detriment of themselves and their families. On balance, however, there is value to the proposal that risk assessments can be paused while criminal matters are proceeding.

*Clarifying the information required from individuals who are subject to a risk assessment.*

### **Recommendation**

UWU supports clearer guidance on required information for risk assessments but opposes limiting submissions to only OCG-requested material. Workers and representatives should be free to provide any other information relevant to the determination of the matter.

*Enabling the cancellation of a clearance where the holder fails to or incorrectly provides the holder's names, former names or known aliases.*

### **Recommendation**

UWU opposes the automatic cancellation of a clearance where the holder fails to or incorrectly provides the holder's names, former names or known aliases. As previously outlined, migrant or First Nations workers may have names with different possible spelling in English, or they may use 'anglicised' names for ease of communication. Such a cancellation should only occur if it can be demonstrated that someone has deliberately withheld their true name with ill-intent.

*Standardising terminology for WWCC decisions.*

### **Recommendation**

UWU supports the Royal Commission’s recommendations to standardise the terminology for key WWCC decisions and acknowledges the benefits it would provide for information sharing. UWU recommends that OCG consult with sector unions about the best approach to standardisation that also provides clarity for workers.

## **Conclusion**

UWU members in early childhood education, school cleaning and other child-related roles welcome the opportunity to contribute to this review and share the OCG’s commitment to strengthening the WWCC system. Reforms must protect child safety while ensuring fair and equitable processes for current and prospective workers.

For more information about this submission, please contact Tim Dymond, Senior Policy Analyst, at [Tim.Dymond@unitedworkers.org.au](mailto:Tim.Dymond@unitedworkers.org.au).

Yours sincerely,



Mel Gatfield

NSW State Secretary

**United Workers Union**

---

<sup>1</sup> Office of the Children’s Guardian Annual Report, 2024-25, pp 31, 34, 70

[https://ocg.nsw.gov.au/sites/default/files/2025-10/R\\_OCG\\_AnnualReport24-25.pdf](https://ocg.nsw.gov.au/sites/default/files/2025-10/R_OCG_AnnualReport24-25.pdf)

<sup>2</sup> National child safety training <https://www.education.gov.au/early-childhood/about/quality-and-safety/national-child-safety-training>