

NSW Government Submission

Royal Commission into Institutional Responses to Child Sexual Abuse

Issues Paper 1 – Working with Children Check

The NSW Government welcomes the opportunity to respond to the Royal Commission's Issues Paper 1 – Working with Children Check (WWCC). In 2000, NSW became the first State in Australia to introduce a WWCC, and now performs over 200,000 checks annually.

In June 2013, NSW introduced a new, strengthened WWCC. This was developed in response to the findings and recommendations of a 2010 statutory review of the *Commission for Children and Young People Act 1998*¹, and a 2010 performance audit of the WWCC by the NSW Auditor General². These reviews concluded that while the previous WWCC had been a good safeguard against risk to children, changes were required to improve its operation, align it with interstate models and extend its reach.

This new WWCC, which is administered by the NSW Children's Guardian, is simpler, covers more people, is more comprehensive and better aligned with checks used in other States and Territories. A comparison of the key features of the previous and current NSW checks is at Tab A.

The introduction of the new WWCC was accompanied by the transfer of responsibility for its administration from the Commission for Children and Young People to the Children's Guardian. This better aligns the WWCC with other regulatory functions relating to the protection of children.

A WWCC provides one level of risk identification and management. It is limited by access to known histories (criminal records, relevant employment proceedings and notification by reporting bodies). While recognising the limitations of the check, NSW considers that the new WWCC applies contemporary practice in managing risk to children.

NSW will evaluate its WWCC in mid-2015, after two years of operation. Any findings which arise out of the Royal Commission in relation to the check will also be considered at this time.

1. Should there be a national WWCC?

While a national WWCC would have some benefits, including consistent monitoring of people who pose a risk to children who move between jurisdictions, consistent requirements for individuals in border regions and eliminating the need for persons who work in different jurisdictions to undertake multiple checks, there are many inherent difficulties with implementing a uniform scheme given the differences between the relevant criminal laws of each State and Territory.

NSW considers that a more realistic approach in the short to medium term would be to agree on nationally consistent approaches to the WWCC supported by minimum standards (these standards are discussed further in response to questions 2 and 3). This approach would meet many of the objectives of a centralised national WWCC.

¹ <http://www.kids.nsw.gov.au/Publications---Resources/Submissions/Review-of-the-Commission/Review-of-the-Commission>

² http://www.audit.nsw.gov.au/ArticleDocuments/142/196_Working_With_Children_Check.pdf.aspx?Embed=Y

NSW will also continue to work with all jurisdictions towards improving the effectiveness of WWCCs across Australia, under the Second Action Plan 2012-2015 of the National Framework for Protecting Australia's Children 2009-2020.

2. What features should be included in any national scheme?

Any national WWCC or nationally consistent WWCC scheme should include features similar to the new NSW WWCC. Key features of the new NSW check include:

- A clearance that lasts for five years, and is portable and renewable.
- The outcome of a check is either a bar or clearance, making it clear for employers who are seeking to recruit safely.
- Child-related volunteers, paid workers and self-employed people are subject to the same check (unless an exemption applies).
- Cleared applicants are subject to continuous monitoring for new criminal and disciplinary records (this is currently limited to new NSW records – under a national scheme, this would be expanded to take into account national records).
- Individuals apply for their own check.
- There is an obligation on the employer to verify that an employee has undertaken a check.
- Interim bars can be issued to high-risk individuals to prevent them from working with children while a risk assessment is completed.
- High-risk people are barred and cannot be hired to work with children.
- There is broad access to appeal provisions.
- The check assesses full national criminal history and findings of misconduct involving children.
- Streamlined online application, registration and verification systems (including capacity for large employers to undertake bulk verifications).
- Quick turnaround (in NSW, over 70% of applications are cleared within 24 hours).
- Paid workers or volunteers can commence child-related work once a check is underway, unless an interim bar is given.
- Free for volunteers, fee for paid workers. In nationally consistent system any fees should be uniform.

In addition to these features, any national scheme should also incorporate the inter-jurisdictional exchange of expanded criminal history information that currently occurs under the Exchange of Criminal History Information for People Working with Children. This expanded information includes spent convictions, pending charges, non-conviction charges including acquittals and withdrawn charges (except for Victorian non-conviction charges) and, where requested, information held by police services to clarify the circumstances of the offence or alleged offence.

3. If there is no national scheme, should there be minimum requirements for each State and Territory scheme?

NSW supports the development of minimum requirements for each State and Territory scheme as the basis for a nationally consistent WWCC. In the absence of a commitment to achieving national consistency, minimum requirements could still be used to achieve greater mutual recognition of checks. However, NSW is not prepared to compromise the strength and integrity of its check for the purposes of agreeing minimum standards. Minimum requirements for each State and Territory should include:

- Consistent national criteria for the classes of employee for whom the check is required.
- Agreed minimum requirements for assessments (including the identification of appropriate records to be reviewed and consideration of previous employment history).
- Standard definitions of key concepts (including child-related work, child-related employment, exemptions and barring offences).
- An agreed set of identification requirements based on established principles of confirming identity which does not depend upon proving residency in Australia.
- A standard risk assessment process.
- A requirement for continuous monitoring of changes in employee's criminal and discipline status.
- The sharing of relevant information between jurisdictions (including the expanded criminal history information exchanged under ECHIPWC).
- Mutual recognition of checks obtained in other jurisdictions.
- Portability and renewability of checks.

4. How long should any clearance be granted for?

The NSW WWCC provides a portable clearance that is valid for 5 years, and is able to be used for any child-related work undertaken during this period. This is considered to strike the right balance between managing risk, and not being too administratively burdensome.

If the outcome of a NSW WWCC is a clearance, the cleared individual will be subject to ongoing monitoring for relevant new NSW records for the five year life of the clearance. Some new records will trigger a risk assessment, which may lead to the clearance being revoked. This provision does not negate the need to re-check applicants, as it does not take into account any new national records which the new WWCC would pick up. Where a provision to monitor new records does not exist, a shorter clearance may be more appropriate.

5. Should a person be able to commence work before the check is completed?

The NSW WWCC allows employees to commence working in a position when they have applied for a check, but not yet received a clearance. It also allows people to commence child-related work prior to applying for a WWCC in emergency situations, so long as they do not continue in that work for more than 5 days without applying for a check. This allows for the emergency placement of children at risk and emergency appointments to child-related roles where the appointee would not have the opportunity to apply for a check before commencing work.

This approach manages risk, while rectifying the situation under the previous check where people who were later cleared were unable to accept any offer of employment while their application was being processed. It also recognises that the vast majority of applications result in a clearance

being granted. Importantly, if any records indicate a serious early risk in the assessment process an interim bar is able to be issued. If an applicant does go on to receive a bar, their employment is able to be terminated. Importantly, employers offering high risk roles may decide only to appoint people who already have a clearance.

As NSW moves away from its previous WWCC, where an application had to relate to particular employment, to a portable model it is expected that this will occur less often. Information resources recommend that applicants obtain a clearance before they apply for child-related work, and it is expected that this will become standard practice over time.

6. How should child-related work be defined?

Child-related work should be defined more broadly than just working directly with children with minimal supervision. It should also take into account the context and inherent risks associated with particular sectors and roles, and the relationship the work would allow an adult to develop with a child.

The NSW WWCC defines child-related work as work that involves face-to face work with children in a specified sector, or work in a specified role (these sectors and roles are specified in response to question 7). In addition, a non-child related role can be classified as child-related for the purposes of the WWCC, where all of the following criteria are satisfied:

- The worker has access to confidential records of information regarding children as part of their role.
- The employer has notified the worker in writing of the requirement to obtain a check.
- The employer has the approval of the Children's Guardian to require a check for the non-child-related role.

The definition of child-related work includes paid work (as an employee, contractor or self-employed person), unpaid work (volunteering and unpaid internships), unpaid work as a student on a placement required to achieve a formal qualification (not including high-school work experience placements) and work as a Minister of religion or spiritual leader of a religious body.

7. How should child-related sectors and roles be defined?

Child-related sectors and child-related roles should be defined by taking into account the context and inherent risks associated with particular sectors and roles.

The NSW WWCC defines child-related sectors and child-related roles as follows:

- Child-related sectors: child development and family welfare services; child protection; children's health services; clubs or bodies providing services for children; disability services; early education and child care services; education; entertainment for children; justice centres; religious services; residential services; transport services for children; and youth workers.
- Child-related roles: an approved provider or manager of an education and care service; a certified supervisor of an education and care service; an authorised carer (foster carer or other authorised carer of children in statutory and supported out-of-home care); an Assessment Officer within the meaning of section 27A of the *Children and Young Persons (Care and Protection) Act 1998*; the Principal Officer of a designated agency; the Principal Officer of an accredited adoption service provider within the meaning of the *Adoption Act 2000*.

8. Are current exemptions for a WWCC adequate or appropriate? In particular, should a WWCC apply to those (a) living in the homes of children in out-of-home care and (b) parent volunteers?

In NSW, people engaged in child-related work are not required to apply for a WWCC if they qualify for one of the exemptions listed at Tab B. These exemptions were arrived at following extensive consultation. While they are generally considered to be appropriate and adequate, the Children's Guardian continues to discuss the scope of these exemptions with some industries. NSW's exemptions are similar to exemptions in other jurisdictions, and they avoid the regulatory and cost burden of requiring people to undertake a WWCC where there is no clear risk that would be managed by the check. For example, where:

- The WWCC would not add value (i.e. there is a low level of risk).
- It is unlikely that there would be any records for the WWCC to analyse (i.e. where the person is very young).
- The WWCC would impose an unacceptable burden on the community or individuals (i.e. where the work involves informal arrangements between friends or neighbours, or where the volunteer is a family member of the children involved).
- There is an emergency situation where children need to be cared for immediately (exemption only applies for up to five days).

There should not be an exemption for adults living in the homes of children in out-of-home care. In recognition of the particular vulnerability of these children, in NSW the WWCC includes a specific requirement that all adults who reside in the home of an authorised carer (foster carer or other authorised carer of children in statutory and supported out-of-home care) obtain a WWCC.

NSW does support an exemption for parent volunteers, as is currently the case in this State (except where the parent volunteering involves providing personal care services to children with disabilities or providing mentoring services as part of a mentoring program).

The previous NSW WWCC required parent volunteers to sign a prohibited employment declaration stating they were not prohibited from working with children. These declarations are not a feature of the new WWCC, as the Auditor General's 2011 performance audit of the check questioned the value of these declarations in managing risk. However, it is open to employers to require an exempt worker to make a statutory declaration that they have not been convicted of an offence under schedule 2 of the *Child Protection Working with Children Act 2012*. Section 40A of the Act establishes that the Children's Guardian may audit the accuracy of these declarations.

The NSW Government is considering appropriate risk management strategies for parent volunteers who attend school camps and overnight excursions, including the possibility of requiring this cohort to undertake a check. This would be consistent with the additional level of risk associated with overnight camps. However, there are a number of practical issues that need to be resolved as part of deciding the most appropriate way to manage this risk (for example, how to ensure compliance and prevent organisations from requesting a check from all parents just to avoid the administrative issue of deciding which parents could participate in excursions or on-site activities).

9. What records should be included in the check? For example, should the check include juvenile records?

The NSW WWCC obtains an applicant's full national criminal history from CrimTrac. This includes convictions (spent and unspent), charges (heard, unheard and dismissed) and juvenile records. In addition, the check also considers findings of sexual misconduct or serious physical assault of a child made by nominated reporting bodies (e.g. Government agencies, employers and registration and licensing authorities) and notifications made by the Ombudsman that indicate serious risk to

children. The NSW WWCC includes records that exist up to the point of a clearance being granted and also includes continuous monitoring of cleared applicants for new NSW criminal and disciplinary records. While the records included as part of the NSW check are extensive, this is appropriate given that the check's effectiveness is dependent on the scope, quality and currency of the information considered.

NSW considers that juvenile records are important to a thorough assessment of the possible risk to children. The age of the offender should not have primacy over any risk to children. However, the NSW WWCC does treat juvenile offences differently to adult offences, in that juvenile offences do not trigger an automatic bar. This recognises that juvenile offences are often (but not always) associated with immaturity and do not necessarily reflect an applicant's current risk profile.

10. How should an appeal process operate?

A strong, independent appeals process is important to ensuring that the WWCC is transparent, effective and makes decisions that are consistent with community standards. This process should provide for independent review of both the assessment outcome, and the process by which the check was undertaken. In NSW, the Administrative Decisions Tribunal is responsible for reviewing the assessment outcome and the Ombudsman has the power to review the process.

The NSW WWCC allows any barred person, except one convicted of child murder, to lodge an appeal. It also allows an interim bar to be appealed, if it remains in place for more than six months without a final decision having been made.

In NSW, an applicant whose appeal has been rejected may not apply for a check again for five years.

11. What issues arise from the current regime of records that result in automatic barring of a person from working with children?

For serious offences, automatic barring is an appropriate and effective outcome that deters people with particularly serious offences from applying for child-related work. The new NSW WWCC includes a simplified definition of records that automatically bar a person from working with children. These are listed at Tab C. A person convicted of, or awaiting trial for, any of these offences committed as an adult will automatically be barred.

The main issue that can arise from automatic barring is that it can inadvertently bar a person who no longer presents a risk to children. To try to address this, the NSW check includes broad appeal provisions which allow any barred person, except one convicted of child murder, to appeal the bar. However, the person cannot work with children until the appeal is finalised. In recognition of this, the Administrative Decisions Tribunal has the power to issue an order that stays the operation of a bar during the appeals process.

The issue of inadvertently barring a person who no longer presents a risk to children is particularly relevant in relation to juvenile offences. For this reason, the NSW WWCC exempts juvenile offences from the automatic bar.

The NSW check also includes pending charges as a ground for issuing an automatic bar. This is particularly an issue for applicants who are later found to be not-guilty of the offence. However, this arrangement is considered necessary to manage risk to children as it would not be appropriate for a person awaiting trial for a serious offence to be given a WWCC clearance.

12. The adequacy of the risk assessment process.

In addition to the records that result in an automatic bar, the NSW WWCC also includes a second set of records that may bar a person from working with children following a risk assessment. A full list of offences which trigger a risk assessment is at Tab D. In addition to these, a risk assessment can also be triggered by a pattern of behaviour or offences involving violence or sexual misconduct that represents a potential risk to children, findings of misconduct reported by a reporting body, and notifications by the Ombudsman. The principles used in NSW to determine which records would initiate a risk assessment were:

- Records that indicate risk of harm to children.
- Records that relate generically to working with children.
- Records that are supported by detailed contextual information.
- Records where investigations and findings have been based on natural justice.
- Records which could support a decision to bar an applicant from working with children.
- Where a record, standing alone, could not be envisaged as leading to a bar, it should not be a record that triggers a risk assessment.

The risk assessment process used in NSW is comprehensive, and based on evidence from offender behaviour experts that there is link between past sexual and violent offending and future similar offending. It takes into account any information given as part of or in relation to the application, with the applicant being informed of the potential decision and invited to submit information which may affect the final outcome.

When assessing risk, the NSW check requires that a range of risk factors and also mitigating factors are taken into account. These include:

- Factors relating to the conduct (seriousness, length of time since it occurred, age and vulnerability of the victims, relationship between the offender and victim(s), age difference between the offender and victim(s) and whether the offender knew or could have known the victim was under 18).
- Factors relating to the applicant (conduct since the offence, age at the time, current age, and seriousness of total criminal and misconduct records).
- Factors relating to recurrence (likelihood of the offences being repeated and impact on children of the offences being repeated).

Risk assessment outcomes are able to be tested in the Administrative Decisions Tribunal, providing oversight of the process.

While it is not possible to say with certainty whether an applicant will offend in the future, NSW considers its risk assessment process to be adequate in determining future risk to the extent that this is possible.

13. To what degree should the WWCC minimise the need for institutions to establish clear processes for responding to inappropriate behaviour of staff in child-related positions?

The WWCC cannot by itself be relied on to keep children safe, and does not replace the need for organisations to invest in clear processes, systems and practices to prevent and respond to inappropriate behaviour. The danger in focusing too closely on regulation in this area is that responsibility for the safety of children moves from the community to Government.

There is a need to ensure that the risks involved with all employees are managed through the development of child safe organisations. WWCCs should be accompanied by child safe recruitment and selection processes, good supervision and training, other probity checks (where available) and effective codes of conduct, complaints handling systems and the development of child-safe policies. There are legislative requirements beyond the WWCC that address these issues in NSW. For example, the *NSW Ombudsman Act 1974* allows the NSW Ombudsman to scrutinise the systems an out-of-home care provider has for preventing, handling and responding to reportable allegations and reportable convictions.

It is critical to establish an environment in which everyone looks out for the welfare of children, and any predatory behaviour is identified early and confronted. All employers should foster a culture that supports employees and managers to note and report suspicious behaviour, and investigate and act on misconduct and inappropriate behaviour.

NSW's WWCC is complemented by a child-safe organisations program administered by the Children's Guardian. This program supports employers with information and education to help them develop:

- Commitment to the principles of safe and supportive environments for children.
- Codes of conduct for working with children.
- Recruitment, selection, training and management strategies that encourage best practice and enhance the safety and well-being of children.
- Proactive assessment and management of workplace risks for children.
- Policies and procedures for handling disclosures and suspicions of harm.
- Strategies for communication and support for all stakeholders.

In light of the importance of these issues, NSW suggests that in addition to a review of the WWCC, the Royal Commission should also consider a framework approach to promote child safe environments, which may include:

- Describing appropriate values based behaviours when engaging with children.
- Strengthening child safety measures in kinship and extended guardian relationships.
- Aiding the development of risk management processes that nurture children and strengthen child protection in location based and activity specific interactions.
- Strategies for individuals to be active agents for change, intervention and protection.

14. How should the effectiveness of any existing or proposed WWCC be evaluated and or monitored?

Ongoing monitoring and evaluation of the WWCC is necessary to ensure that the existing system is working effectively and make appropriate improvements. In 2000, NSW became the first State to introduce a WWCC. At this time the check was considered good practice. However by 2010, following two reviews of the check, changes were required to improve its operation, align it with interstate models and extend its reach.

It is unclear if any plausible method exists for determining how much offending is prevented by the check. In the absence of this data, the effectiveness of the WWCC should be assessed using qualitative and quantitative measures and should involve client feedback against the administration of the check. This could include input measures (number of checks taken and the outcome, number of risk assessments and the outcome, number of appeals and the outcome, processing times, and number of withdrawn clearances and the reason) and outcome measures (feedback on the timely administration of the WWCC, value and impact of associated educational programs, and/or analysis of longitudinal data on reported child sex offences).

The new NSW WWCC will be independently evaluated in 2015 after two years of operation, to assess policy and financial impacts and provide an opportunity for adjustment and correction. The evaluation will also attempt to measure community understanding and compliance and the validity of the process. The evaluation will be reviewed by the NSW Government to determine whether further legislative, regulatory, systems or policy refinements are required. The legislation also requires the Minister to review the Act after five years of operation to determine whether its policy objectives remain valid and whether the terms of the Act remain appropriate for securing these objectives.

Main differences between the new NSW WWCC and the previous WWCC

New WWC	Previous WWCC
Check lasts for five years, is portable and renewable.	Check is only valid for one position, with applicants needing to obtain a new check for every new job.
Outcome is either a bar or a clearance, making it easier for employers to recruit safely.	Outcome is a bar, clearance or advice to employer about level of risk.
Child-related volunteers, paid workers and self-employed people subject to the same Check (unless an exemption applies).	Volunteers, paid workers and self-employed people get different levels of checking.
Cleared applicants are subject to continuous monitoring for new NSW criminal and disciplinary records.	No further record checking once Check is complete, until a new application is submitted for a new job.
Individual applies for their own Check.	Employer applies on behalf of the individual.
Interim bars can be issued to high-risk individuals to prevent them from working with children while risk assessment is completed.	No equivalent.
High-risk people are barred and cannot be hired to work with children.	Opportunity for employers to engage high-risk individuals at their discretion.
Broad access to appeal provisions through the Administrative Decisions Tribunal.	Limited access to appeal provisions.
Accesses full national criminal history.	Can access only a subset of criminal records.
Streamlined online application, registration and verification systems.	Paper based and repetitive.
Quicker turnaround, with over 70% of applications cleared within 24 hours.	Up to six weeks before applicant received an outcome.
Paid worker or volunteer can commence once Check is underway, unless given interim bar.	Worker cannot commence until Check is completed.
Free for volunteers; a fee for paid workers.	Free for some; fee for self-employed people.
WWCC administered by a single checking agency.	Four approved screening agencies administered the WWCC.

Exemptions under the NSW WWCC

Child-related workers are exempt from the requirement to undertake a check if one of the following exemptions applies.

- Administrative, clerical or maintenance work, or other ancillary work, that does not ordinarily involve contact with children for extended periods.
- Work with minimal direct contact or unsupervised contact with children, where this work is done for no more than five days in a calendar year.
- Informal domestic arrangements not carried out on a professional or commercial basis.
- Work with close relatives of the worker (not including work as an authorised carer, foster carer or other authorised carer of children in statutory and supported out-of-home care).
- Volunteering by a parent or close relative:
 - o of a child in activities for the child's school, early education service or other educational institution; except where the work is part of a formal mentoring program or involves intimate personal care of children with a disability
 - o with a team, program or other activity in which the child usually participates or is a team member; except where the work is part of a formal mentoring program or involves personal care of children with a disability.
- A visiting speaker, adjudicator, performer, assessor or other similar visitor at a school or other place where child-related work is carried out if the work of the person at that place is for a one off occasion and is carried out in the presence of one or more other adults.
- A health practitioner in private practice, if the practice does not ordinarily involve treatment of children without one or more other adults present.
- A health practitioner who is working in and visiting NSW from outside the State, if the period of work does not exceed a total of five days in any period of three months.
- A co-worker or work supervisor where a child works.
- Work by an interstate visitor:
 - o in a one-off event such as a jamboree, sporting or religious event or tour, if the event is the only child-related work carried out by the worker in NSW in that calendar year and the period of work does not exceed 30 days
 - o who holds an interstate working with children check, or is exempt from the requirement to have such a check in his or her home jurisdiction, whose child related work in NSW is for no more than 30 days in any calendar year.
- NSW Police or Australian Federal Police officers in their capacity as police officers.
- Home carers accredited with a current police certificate for aged care, for home care work where the clients are not primarily children.
- People under the age of 18.

Automatic Barring Records

Act	Description of Offence
NSW Crimes Act 1900	
s.18	Murder or manslaughter of child (other than as a result of a motor vehicle accident)
s.33	Intentional Wounding (victim under 18 by adult more than 3 years older)
s.35	Causing grievous bodily harm (victim under 18 by adult more than 3 years older)
s.42	Injuries to child at time of birth
s.43	Abandoning or exposing child under 7 years
s.61B	Sexual assault category 1 – inflicting grievous bodily harm with intent to have sexual intercourse (repealed)
s.61C	Sexual assault category 2 – inflicting actual bodily harm etc with intent to have sexual intercourse (repealed)
s.61D	Sexual assault category 3 – sexual intercourse without consent (repealed)
s.61E	Sexual assault category 4 – indecent assault and act of indecency (repealed)
s.61F	Attempt to commit offence under secs. 61B to 61E (repealed)
s.61I	Sexual assault
s.61J	Aggravated sexual assault
s.61JA	Aggravated sexual assault in company
s.61K	Assault with intent to have sexual intercourse
s.61L	Indecent assault
s.61M	Aggravated indecent assault
s.61N	Act of indecency
s.61O	Aggravated act of indecency
s.61P	Attempt to commit offence under sections 61I–61O
s.65A	Sexual intercourse procured by intimidation, coercion and other non-violent threats (repealed)
s.66	Procuring etc carnal knowledge by fraud (repealed)
s.66A	Sexual intercourse child under 10
s.66B	Attempting, or assaulting with intent, to have sexual intercourse with child under 10
s.66C	Sexual intercourse with child 10 to 16
s.66D	Attempting, or assaulting with intent, to have sexual intercourse with child 10 to 16
s.66EA	Persistent sexual abuse of a child
s.66EB	Procuring or grooming a child under 16 for unlawful sexual activity
s.66F	Sexual intercourse—intellectual disability
s.73	Sexual intercourse with child between 16 and 18 under special care
s.74	Attempts (carnal knowledge by teacher etc) (repealed)
s.76	Assault and commit act of indecency on female under 16 (repealed)
s.78A	Incest
s.78B	Incest attempts
s.78H	Homosexual intercourse with male under 10 (repealed)
s.78I	Attempt, or assault with intent, to have homosexual intercourse with male under 10 (repealed)

s.78K	Homosexual intercourse with male 10 to 18 (repealed)
s.78L	Attempt, or assault with intent, to have homosexual intercourse with male between 10 and 18 (repealed)
s.78N	Homosexual intercourse by teacher etc (repealed)
s.78O	Attempt, or assault with intent, to have homosexual intercourse with pupil (repealed)
s.78Q	Acts of gross indecency (repealed)
s.79	Bestiality
s.80A	Sexual assault by forced manipulation
s.80D	Causing sexual servitude
s.80E	Conduct of business involving sexual servitude
s.81	(repealed)
s.86	Kidnapping (except where by parent or carer)
s.91D	Promoting or engaging in acts of child prostitution (other than offence committed by child prostitute)
s.91E	Obtaining benefit from child prostitution (other than offence committed by child prostitute)
s.91F	Premises not to be used for child prostitution (other than offence committed by child prostitute)
s.91G	Children not to be used for pornographic purposes (other than offence committed by child prostitute)
s.91H	Production, dissemination or possession of child pornography (child under 16) (other than offence committed by child prostitute)
s.91J	Voyeurism
s.91K	Filming a person engaged in private act
s.91L	Filming a person's private parts
s.91M	Installing a device to facilitate observation or filming (where person intended to observed or filmed was a child)
578B	Possession of child pornography (repealed)
578C (2A)	Publishing Indecent articles
NSW Summary Offences Act 1988	
s.21G	Filming for indecent purposes (where person intended to observed or filmed was a child) (repealed)
Commonwealth Customs Act 1901	
s.233BAB	Importation of items of child pornography or of child abuse material
Commonwealth Criminal Code Act 1995	
s.270.6A	Forced labour (victim under 18)
s.270.7	Deceptive recruiting for labour or services (victim under 18)
s.272.8-.11,272.14-.15	Sexual offences against children outside Australia
s.272.18-272.20	Offences of benefiting from, encouraging or preparing for sexual offences against children outside Australia
s.471.16-.17, 471.19-.20, 471.22	Offences relating to use of postal or similar service for child pornography material or child abuse material
s.471.24-26	Offences relating to use of postal or similar service involving sexual activity with person under 16

The common law offences of rape and attempted rape are Schedule 2 disqualifying offences.

Offences which trigger a risk assessment

Note: the same decisions appear as automatically barring records and barring by decision records. This is because convictions and pending convictions for those offences are normally automatic bars, and non-conviction charges for these offences are assessed.

Act	Description of offence	Finding/outcome
Various	Adult Schedule 2 offences	Non-conviction charges
Various	Juvenile Schedule 2 offences	Whatever the outcome of the proceedings, i.e. all records
Various	Patterns of violence or sexual misconduct (whether or not listed in Sch 1 or 2)	Convictions, pending charges
Crimes Act 1900		
	An offence involving intentional wounding or causing bodily harm to a child by an adult (other than an offence in Sch 2 (1))	Whatever the outcome of the proceedings, i.e. all records
	Any sexual offence committed against, with or in the presence of a child (other than an offence in Sch 2 (1))	Whatever the outcome of the proceedings, i.e. all records
s.38	Using intoxicating substance to commit an indictable offence (victim under 18)	Whatever the outcome of the proceedings, i.e. all records
s.38A	Spiking food or drink (victim under 18)	Whatever the outcome of the proceedings, i.e. all records
s.45	Female genital mutilation (victim under 18)	Whatever the outcome of the proceedings, i.e. all records
s.60E	Assaults at school	Whatever the outcome of the proceedings, i.e. all records
Crimes (Domestic and Personal Violence) Act 2007		
s.13	Stalking (victim under 18)	Whatever the outcome of the proceedings, i.e. all records
Prevention of Cruelty to Animals Act 1979	Description of offence	Finding/outcome
s.6	Aggravated cruelty to animals	Whatever the outcome of the proceedings, i.e. all records
Crimes Act 1900	Description of offence	Finding/outcome

s.43A	Failure of person with parental responsibility to care for child	Proceedings commenced (other than where person found not guilty)
s.44	Failure to provide necessities of life (victim under 18)	Proceedings commenced (other than where found not guilty)
s. 530	Serious animal cruelty	Proceedings commenced (other than where person found not guilty)
Children and Young Persons (Care and Protection) Act 1998		
s.227	Child and young person abuse	Proceedings commenced (other than where person found not guilty)
s.228	Neglect of children and young persons	Proceedings commenced (other than where person found not guilty)
s.231	Leaving children and young persons unsupervised in motor vehicles	Proceedings commenced (other than where person found not guilty)
Drug Misuse and Trafficking Act 1985		
s.23A	Offences with respect to enhanced indoor cultivation of prohibited plants in the presence of children	Proceedings commenced, (other than where person found not guilty)
s.24(1A), (2A)	Exposure of children to the manufacture and production of prohibited drugs	Proceedings commenced (other than where person found not guilty)
s.25(1A)	Adult who supplies prohibited drugs to a person under 16	Proceedings commenced (other than where person found not guilty)
Crimes Act 1900		
s. 61	Common assault (victim under 18)	Convictions