

# Residential Care Workers Register Fact Sheet

Information for applicants and engaged workers

September 2022

The Office of the Children's Guardian is an independent, statutory authority committed to delivering better outcomes for children and young people living in out-of-home care.

We accredit and monitor the performance of agencies that arrange statutory and supported out-of-home care and adoption services. We also register and monitor agencies that provide, arrange or supervise voluntary out-of-home care. We are a regulator – we are not a provider of care services.

We have established a Residential Care Workers Register to help agencies to decide the suitability of an individual to provide direct care to children and young people in residential care.

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## What is the Residential Care Workers Register?

The Residential Register provides a mechanism for agencies to exchange information relating to the safety, welfare or wellbeing of children and young people in residential settings. This will support agencies to decide on the suitability of an individual to provide care to children and young people in residential care. The Residential Register is a secure, restricted access database which holds information about those individuals who are being considered for employment and those who have been engaged as residential care workers.

The OCG has established the register under section 85(1)(b) of the *Children's Guardian Act 2019*. The legislation supporting the establishment of the register and the requirements for designated agencies more broadly can be found at Part 5 Division 5 of the *Children's Guardian Act 2019* as well as in the *Children's Guardian Regulation 2022*.

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## Who will be recorded on the Register?

The Residential Register holds information about those workers who provide and/or are responsible for the care of children and young people in a residential setting.

These individuals are known as *residential care workers*, and this includes those who:

- provide direct care and supervision to a child or young person (or group of children and young people) in a residential setting
  - provide security services in a residential setting
  - spend more than 60% (or the majority) of their time employed by the designated agency within a residential setting as part of fulfilling their role in:
    - developing or implementing case management plans
    - providing other administrative duties
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## How does the Register impact me?

Anyone who applies for a role which meets the definition of a residential care worker should receive basic information about the Residential Register. If your application progresses to the referee check stage of the application process, your details **must** be entered onto the register by that agency. This supports the agency to do mandatory probity checks and make a decision about your suitability. You may withdraw your application at any time during the process. If you withdraw your application, any information collected and recorded on the register before withdrawing will only be visible to the recording agency.

The register does not replace formal recruitment processes which are undertaken by an agency. The register is one part of the overall recruitment process, and other parts of the process may differ depending on how each agency chooses to undertake its recruitment.

At the end of the recruitment process, the agency will record its final decision on the register to either 'engage' or 'not engage' you as a residential care worker.

Where a decision is made to 'engage' you as a residential care worker, the information entered about you will become a permanent record on the register. This will be visible to any other agency that also has an association with you, including any future agencies you may apply to work with.

Where a decision is made to 'not engage', this record will only be visible to the recording agency. A decision to 'not engage' may be a result of determining you as being unsuitable, due to there not being enough positions to offer you a role, or due to your withdrawal from the recruitment process.

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## Do I need to give consent before my details can be entered onto the register, updated or shared?

Yes. You need to provide consent before your information is entered onto the register. The agency will send you a text message via the register, requesting your consent. The register will confirm your identity and that you hold a current WWCC clearance. If the information you have provided to the agency doesn't match the details you entered when applying for a WWCC, then the agency will not be able to progress your application.

You are not obliged to give consent to be entered onto the register, but your application will not proceed without it, and you cannot be considered for employment as a residential care worker.

By giving your consent at the application stage, you agree to:

- your details being collected and added to the register as part of the recruitment process
- your personal information being used, or disclosed, by the recruiting agency on an ongoing basis. This includes the exchange of information between agencies where it is related to the safety, welfare and wellbeing of children and young people as permitted by Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*.

If you receive a request for consent from an agency and you are unsure why, you can contact the agency directly. You can also find more [information about the Register on our website](#).

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## What information is held on the Register and who will enter this?

The Residential Register records personal information about individuals who have reached the final stages of a recruitment process and those who have been engaged as residential care workers.

The Residential Register contains only that information necessary to link a worker to the agencies that have engaged their services and to flag any alerts between those agencies. The following information is held on the Residential Register:

- Full name (and any other, or previous, names), date of birth, gender (if disclosed)
- If the individual identifies as Aboriginal and/or Torres Strait Islander (if disclosed)
- The date and outcome of mandatory probity checks:
  - Working with Children Check (including the APP / WWC number and expiry date)
  - Nationwide Criminal Record Check
  - Other Agency Check<sup>1</sup>
  - Community Services Check – to be phased in at a future date
- Decision to engage or not engage an individual
- Once engaged:
  - The commencement and end dates of the individual's engagement
  - The date of any current reportable allegations and any finalised outcomes (but excluding the details of these).
    - It should be noted that the details of an allegation will not be held on the Register. Any relevant information may be exchanged between agencies where they are both currently engaging a person or where an individual seeks employment with another agency.
  - Update an individual's personal details as required.

Once an engagement is end dated, any other agency that you are currently engaged with will be able to see that this engagement has ended. If you make an application to another agency in the future and reach the stage of the application process at which the recruiting agency conducts reference

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<sup>1</sup> Referred to as a *residential care provider check* in the Children's Guardian Regulation 2022

checks with your referees, that new recruiting agency will be able to see any past engagements you have held which will support them to conduct an Other Agency Check.

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## Mandatory probity checks

Where an individual is being considered for employment to provide care to children and young people in residential care, a number of mandatory probity checks are required to be completed. More detail on each check is outlined below.

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### What is a Working with Children Check?

A WWCC is a legal prerequisite for any person aged 18 or over in paid or unpaid, child-related work. It involves a national criminal history check, a review of relevant findings of misconduct and notifications by the NSW Children's Guardian's Reportable Conduct Directorate.

The result of a WWCC is either a clearance to work with children for five years, or a bar against working with children. Cleared individuals are subject to ongoing monitoring, and relevant new records may lead to the clearance being revoked before the five-year expiry date.

Individuals engaged to work in child-related work, including as a residential care worker, are required by law to obtain a WWCC clearance. Agencies are required to verify clearances online.

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### What is a Nationwide Criminal Record Check?

It is a condition of a designated agency's accreditation to provide statutory out-of-home care that they must undertake a Nationwide Criminal Record Check (commonly called a National Police Check) for all employees, contractors and volunteers in child-related work in residential care. Further information can be found at [www.police.nsw.gov.au](http://www.police.nsw.gov.au)

A National Police Certificate, provided as part of this check, lists "*disclosable court outcomes*" released in accordance with state and federal legislation, including the New South Wales *Criminal Records Act 1991*. Pending charges may also be included in a National Police Certificate.

Australian police criminal record information is generally limited to prosecutions initiated by police. Some offences are prosecuted by non-police organisations and details of convictions resulting from these prosecutions may not be included in the National Police Certificate.

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### What is an Other Agency Check?

An agency that is recruiting a worker will be able to see on the Residential Register, whether that person has a current association with another agency or a past association where that agency has indicated they hold relevant information to exchange.

Where this occurs, the recruiting agency will be required to contact the other agencies to request information they hold that is relevant to any risk the individual may pose to the safety, welfare or wellbeing of children and young people. This exchange of information is permitted under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*.

The purpose of this check is to ensure information relevant to the assessment of an individual to be engaged as a residential care worker is shared between agencies. This will support the agency in making a determination about whether to engage the individual.

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### What is a Community Services Check?

A Community Services check is a review of relevant information about an individual held by the Department of Communities and Justice (DCJ). Examples of information reviewed include records held on the Child Story database, KiDS database information, Risk of Significant Harm reports, allegations of reportable conduct and outcomes of investigations.

The register will commence with the following three mandatory probity checks: the WWCC; the Nationwide Criminal Record Check; and the Other Agency Check. The requirement to complete Community Services Checks will be phased in at a later date.

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## Outcome of compulsory probity and suitability checks

The register records the outcome of probity checks and does not permit an individual to be engaged until the agency declares that all required checks and assessments have been completed with a satisfactory outcome. The outcome decision about these checks is at the discretion of the recruiting agency.

The register does not hold details of each probity check other than the date completed and the outcome (satisfactory or unsatisfactory). However, agencies are required to maintain records within their own agency files so that any relevant information may be shared with other agencies during an 'Other Agency Check'.

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## Who has access to information on the register?

At the application stage and following consent being given by an individual, an agency can view any current or past association the applicant holds with another agency to support conducting an 'Other Agency Check'. This promotes information exchange between agencies to assist in the recruitment of suitable people to work with children and young people in residential care.

Once an individual is engaged, an agency has access to information about current or past engagements with other agencies.

The Children's Guardian must provide access to information held on the register, if asked by the Secretary of the Department, the Minister for Families, Communities and Disability Services or the NSW Ombudsman. Access to information is only granted if this supports an identified purpose and aligns with privacy legislation.

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## Am I able to access information recorded about me on the Register?

Yes. Designated agencies should routinely provide information to workers upon engaging them as a residential care worker. At any time though, individuals can request information from their employer by making a formal request for a copy of the details recorded on the Register.

In most cases, a request made directly to the agency can be resolved quickly as the individual is known to the agency. Individuals may also request to have information amended on the Register if this is incorrect, in accordance with section 13 of the Children's Guardian Regulation 2022.

The Act and Regulation impose a requirement on employing, or previously employing, residential care providers to respond to requests for this information, or to update the Register to correct records, unless there is a reason not to.

If a residential care provider has refused to provide this information, or correct a record, they must provide a reason for this decision. If they refuse without reason or have not responded in a timely manner, an individual is able to make a request to the Office of the Children's Guardian, as the administrator of the Register. This involves the individual completing an application form and submitting this with proof of identification to verify that they are entitled to receive the information. The application form can be obtained from the OCG by making contacting with the residential register team at [residential-register@ocg.nsw.gov.au](mailto:residential-register@ocg.nsw.gov.au).

The Children's Guardian is also required to notify the individual and the relevant agency of the outcome of any such request, including where a decision is made not to provide, or amend information held on the Register.

Please note that you will not be provided access to reportable allegation information held about you on the register. Although reportable allegation information recorded on the register is limited, this restriction on access ensures that agencies can make an informed decision about the timing and

appropriateness of giving you this information. The responsible agency should provide more detailed information about reportable allegations separate to the register as is deemed appropriate. There are only limited occasions where this may not occur, and this would generally be informed by advice from NSW Police. All agencies are required to have detailed policies and procedures in place around how they will manage reportable allegations made and how information, including the type and level of information, will be provided to you as a worker.

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## How will my personal information be used and protected?

Your information will be used by agencies to assist them in determining your suitability to be engaged as a residential care worker. Agencies are also lawfully authorised to exchange information they hold about you that is related to the safety, welfare and wellbeing of children and young people where they consider that the information will assist in managing risk that might arise in another agency's capacity as your employer.

Any agency that accesses the Residential Register must comply with the Register's Terms of Access and Use. This includes a requirement that information held on the Register is only used and accessed for a lawful purpose. The register is a secure database which is password protected and is to be accessed only by approved agency staff. The Office of the Children's Guardian can limit, suspend or terminate an agency's access to the Register for misuse.

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## More information

If you have a question regarding the register, please contact your recruiting agency or employer. There is also more information about the register on the OCG's website.

For information about the OCG's other regulatory responsibilities, including the Working with Children Check, child safe organisations, statutory and voluntary out-of-home care, and adoption, please visit [www.ocg.nsw.gov.au](http://www.ocg.nsw.gov.au)

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