

Reportable allegations and the Residential Care Workers Register

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Recording reportable allegations on the Residential Care Workers Register

Guidance for designated agencies on how to record reportable allegations on the NSW Residential Care Workers Register (RCWR).

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Reportable allegations and the NSW Reportable Conduct Scheme

All designated agencies must have detailed policies and procedures in place to support how they will meet their obligations under the [NSW Reportable Conduct Scheme](#). The [reportable conduct scheme is administered by the OCG's Reportable Conduct Directorate \(RCD\)](#). This includes how a designated agency will respond to reportable allegations made against their employees.

Practice notes:

- For **reportable allegations involving criminal conduct**, an agency **must** report this to the police. It is important these matters are identified and responded to in a certain way so that any possible investigation by Police is not compromised. If an agency is unsure how to [respond to allegations](#) involving possible criminal conduct, please contact the Reportable Conduct Directorate for further guidance on (02) 8219 3800.
- All designated agencies are prescribed bodies. Prescribed bodies can **proactively exchange information** at any time under Chapter 16A of the *Children and Young Person's (Care and Protection) Act 1998*, if it is relevant to the safety, welfare and wellbeing of children and young people.

Reportable allegations and the RCWR

In addition to the NSW Reportable Conduct Scheme more broadly, information about a reportable allegation **must** be recorded on the RCWR, where this has been made against a residential care worker¹. The detail recorded includes that the allegation was made and the date the agency became aware of the allegation. The RCWR is administered by the OCG's Carer and Residential Worker Monitoring Team.

Practice notes:

- The NSW Reportable Conduct Scheme requires that agencies notify the OCG of a reportable allegation within 7 days of becoming aware of this. A reportable allegation made against a residential care worker is to be recorded on the RCWR within the same timeframe.
- The RCWR was introduced to support the sharing of information that is relevant to the safety, welfare or wellbeing of children. At any time, following receipt of a reportable allegation, a designated agency may share any relevant information it holds with another designated agency, under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*. Chapter 16A and the Other Agency Check (OAC) are two separate functions. If an agency is sharing or requesting information during the process of managing a reportable allegation matter, this is permitted under the provisions of Chapter 16A.

¹ Schedule 6, Dictionary of *Children's Guardian Act 2019* and section 4 of *Children's Guardian Regulation 2022*

Recording a reportable allegation on the RCWR

Where a designated agency becomes aware that a reportable allegation has been made against a residential care worker who is currently engaged by the agency, the agency must **record a 'reportable allegation' flag**. This can be done by an agency user who is the Primary Administrator, General Administrator, or Reportable Allegation Officer. Once the reportable allegation has been entered, an automated email notification will be sent to the agency's Head of Relevant Entity (HRE) user to approve or decline.

Practice notes:

- The designated agency responsible for recording a reportable allegation onto the RCWR must enter the necessary information **within 7 business days** of the HRE becoming aware of the allegation.
- For **reportable allegations where the worker is engaged by multiple agencies**, only **one** agency is required to record the reportable allegation flag on the RCWR. This will usually be the agency that was engaging the residential care worker when and/or where the conduct is alleged to have occurred. This is often the agency who will take the lead in investigating the allegation. If this is not the case, the agencies can discuss this and come to an agreement on who will conduct the investigation and record the matter on the RCWR.
- The agency must answer Yes to the following questions to proceed with entry of a reportable allegation:
 - Was the residential care worker still engaged with your agency when the reportable allegation was raised, and
 - Was the alleged victim under 18 years of age at the time of alleged conduct.
- If a decision is made to terminate a worker's employment or a worker resigns following a reportable allegation being recorded on the RCWR, the agency is required to **end date the worker** on the RCWR. The agency should then continue to investigate the allegation as per obligations under the reportable conduct scheme.
- When recording a reportable allegation, consideration must be given to proactively sharing relevant information with any other agencies who are also currently engaging the worker. The RCWR gives an employing agency visibility of any other agencies who are also currently engaging the same individual.
- The agency's nominated email linked to the Reportable Allegation Alert email on the RCWR must be maintained as current, to support automated notifications built into the functionality of the register.
- Effective 1 September 2022, **Class or Kind arrangements are no longer in place**. All reportable allegations must be lodged as *Reportable to the Children's Guardian*.

Exemptions under the Reportable Conduct Scheme

As a reminder, the NSW Reportable Conduct Scheme requires agencies notify the OCG of a reportable allegation within 7 days of becoming aware of this. A reportable allegation made against a residential care worker is to be recorded on the RCWR within the same timeframe. Upon receiving the 7-day notification from a designated agency, the Reportable Conduct Directorate (RCD) will review the details of the allegation and make a determination as to whether the matter is within jurisdiction and if so, this will be approved on the RCWR.

The RCD **may** also apply an exemption to the agency to a specific component of the individual matter. The decision to apply an exemption, and the particular aspects of that exemption will depend on a variety of considerations related to the specific matter. The details of the exemption will be outlined in the correspondence provided by the RCD. If an agency is unsure about what the exemption itself means, they should reach out to the RCD for clarification.

If an exemption has been applied, this means the allegation has been deemed **in jurisdiction**. This is **not** an exemption from recording the allegation on the RCWR. The only exception to this is if the business rules exclude this from occurring e.g. where a worker is engaged by multiple agencies and only one agency is required to record this.

Practice note:

- When an exemption is applied, the agency is still required to take action to investigate and manage the allegation. The risk associated with an allegation must be assessed, and once a final determination or outcome is made, the agency must record the finalised outcome i.e. Finalise no record / contact agency on the RCWR as per process outlined below.

HRE user - Approve or Decline a reportable allegation

Once the reportable allegation has been entered onto the RCWR, an automated email notification will be sent to the agency's Head of Relevant Entity (HRE) user to approve or decline the allegation entry. The HRE has responsibility to assess whether the residential care worker's alleged conduct **meets the definition and threshold of a reportable allegation**.

Practice notes:

- The reportable allegation will remain as 'pending' until the HRE records a decision. At this stage, it also remains visible only to the recording agency.
- If the reportable allegation **does** meet the threshold for a reportable allegation, the **HRE action** is to press the '**approve**' button.
- Once **approved**, an automated email notification will be sent to the RCD to notify them, so they can consider whether the matter falls within jurisdiction.
- If the reportable allegation **does not** meet the threshold of a reportable allegation, the **HRE action** is to press the '**decline**' button. This will close the matter and the reportable allegation will not appear against the named employee.
- If any new information comes to light after making a decision to Decline, the agency is able to commence entry of a new reportable allegation.

RCD – Approve or Decline a reportable allegation entry

Once the RCD have received notification of a reportable allegation entry onto the RCWR, this will be assessed, and an outcome will be recorded. This will be to either Approve or Decline the entry.

Practice notes:

- If the reportable allegation **does** meet the threshold and jurisdiction for a reportable allegation, this will be **Approved** by the RCD. Once approved, an automated email notification will be sent from the RCWR to the agency advising of this. The reportable allegation status on the RCWR will change to '**Current**'.
- If the residential care worker is currently engaged by any other agencies on the RCWR, an email notification will also be sent to that other agency's nominated Reportable Allegation Alert email, advising that the allegation has been entered. This will support information sharing between the

two agencies, if this has not already commenced. Information sharing of this nature is permitted under Chapter 16A.

- Once approved by RCD, the **Contact Agency flag** against the worker record will automatically be changed to Yes, if the agency has not already manually updated this.
- If the reportable allegation **does not** meet the threshold and jurisdiction for a reportable allegation, this will be **Declined** by the RCD. If declined, an automated email notification will be sent to the agency's HRE user advising of this. If the HRE agrees with the RCD decision, the **HRE must also Decline** the entry. This will close the matter and the reportable allegation **will not appear against the named employee**. If the HRE **'approves'** this record **it will return to the RCD for assessment again**.

Agency recording a Finalised outcome

Once the agency has finalised an investigation into a reportable allegation, it must **record the finalised outcome** within **14 business days of the outcome decision**. Once the finalised outcome has been entered, an email notification will be sent to the agency's **Head of Relevant Entity (HRE)** user to **approve** the finalised outcome.

Practice notes:

- The designated agency should determine whether there are any ongoing risks or information that should be shared if the individual became associated with another agency. The critical factor is not whether there has been a finding of reportable conduct, but whether there is information that may relate to the safety, welfare or wellbeing of a child or children in out of home care more generally.
- The finalised outcome options are:
 - **FINALISE – CONTACT AGENCY**
If a designated agency holds any information relevant to ongoing risks to children, it should select 'finalise – contact agency' on the RCWR. This indicates that the agency has sufficient evidence to be satisfied that it holds information to exchange that may relate to the safety, welfare or wellbeing of a child, or class of children in out-of-home care.

This information, including a clear rationale of why the agency has determined this information is relevant to the safety, welfare and wellbeing of children should be documented by the agency and readily available to exchange as necessary. The Other Agency Check Part 2 form may be appropriate.

In these cases, the record relating to the reportable allegation will be viewable on the RCWR by other designated agencies who have an association with the same worker.

The **Contact Agency flag** against the worker should remain set to Yes, as the agency has determined it holds relevant information.

- **FINALISE – NO RECORD**
If the agency has determined that it does not hold any information relevant to ongoing risk posed by the worker to a child or class of children, it should select 'finalise – no record'.

In these cases, the record relating to the reportable allegation will not be viewable on the RCWR by another designated agency.

The **Contact Agency flag** against the worker will not change to No automatically. This is because the agency may hold relevant information separate to the reportable allegation. Where this outcome is recorded, the agency must consider whether it holds any other relevant information about the individual. If it does not, then the **Contact Agency flag** should be updated to No by the agency.

- The finalised outcome can be recorded even after a residential care worker has been end dated.
- The finalised outcome can be changed from finalised — contact agency to finalised-no record or vice versa at any time if this is appropriate. **Any change to the finalised status requires HRE approval.** When recording the finalised outcome for a reportable allegation matter, the agency must **consider the need to proactively share information with other agencies who are also engaging the worker.**

Exchange of information relating to reportable allegations

16A exchange of information

At any time, following receipt of a reportable allegation, a designated agency may share any relevant information it holds with another designated agency, under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*. Similarly, if an agency receives an automatic alert to its RCWR Reportable Allegation Alert email to advise that a reportable allegation has been lodged on the RCWR against an individual they are also currently engaging, they may proactively request information from the other designated agency. Any exchange of information must relate to the safety, welfare or wellbeing of children.

Contact Agency flag

The Contact Agency flag must be recorded against any worker who is currently Engaged or End dated by an agency, if the agency has made a determination that it holds information that is relevant to the safety, welfare or wellbeing of children.

The Contact Agency flag will automatically switch to Yes, where a worker is Engaged on the RCWR, and a reportable allegation is approved by the RCD. This will occur only where the flag has not already been recorded by the agency. As soon as an allegation is known to an agency, consideration should be given to the need to update the Contact Agency flag to Yes. This will ensure that if the worker seeks employment elsewhere, the agency is able to share relevant information as part of the recruitment process.

When a reportable allegation is finalised, the Contact Agency flag will remain as Yes. If the outcome is Finalise-Contact Agency, the flag cannot be amended. If the outcome is Finalise-no record, the agency must determine whether it holds any relevant information about the worker, beyond the reportable allegation alone. If no, the Contact Agency flag must be updated to No.

Other Agency Check and exchange of information

The Other Agency Check is a mandatory probity check, to be completed as part of initial entry of an applicant onto the RCWR, or when considering a worker for re-engagement. The requirement to conduct the Other Agency Check is driven by the Contact Agency flag. If this is Yes against a worker, the Other Agency Check will be mandatory. If this is No, the Other Agency Check is not a requirement. This is why it is critical for agencies to maintain the Contact Agency flag as accurate.

The Other Agency Check supports the request for, and exchange of relevant information, between designated agencies who have an association with the same individual. Any relevant information held by an agency in relation to a reportable allegation may be exchanged in response to an Other Agency Check request, using the approved Part 2 template form.

For more information

- The most appropriate way for a residential care worker to obtain information about a reportable allegation made against them is through correspondence and meetings with the agency they are or have been employed with. Further information for employees, along with other useful factsheets can be found [here](#).
- More information about [NSW Reportable Conduct Scheme](#) is available.

- More information about reportable allegations and the Residential Register.
- The Reportable Conduct Directorate can be contacted at reportableallegations@ocg.nsw.gov.au or (02) 8219 3800
- The Carer and Residential Worker Monitoring team can be contacted at residential-register@ocg.nsw.gov.au or (02) 8219 3888

Office of the Children's Guardian

www.ocg.nsw.gov.au

Carer and Residential Worker Monitoring team: (02) 8219 3888

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