

Residential Care Workers Register

Guidance summary 1 - General overview

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.

Why establish a Residential Care Workers Register?

In its final report of December 2017, the Royal Commission into Institutional Responses to Child Sexual Abuse recommended that each jurisdiction should establish a register of residential care workers to improve the safety of children and young people in out-of-home care.

Agencies also raised concerns that there is potential for unsuitable staff working in residential care to easily move between agencies, particularly where they are engaged by more than one agency. This also includes situations where an individual may be the subject of a workplace misconduct investigation or performance management processes and seeks employment with another agency before an investigation is finalised.

The NSW Residential Care Workers Register provides a mechanism for agencies to exchange information relevant to the safety, welfare or wellbeing of children and young people. This supports agencies to decide if an individual is suitable 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 have reached the final stages of the recruitment process 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*.

Whose information will be recorded on the Residential Register?

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

The *Children's Guardian Act 2019* and the *Children's Guardian Regulation 2022* outline who a residential care worker is, and this includes those workers 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 60% or more of the time employed by a designated agency within a residential setting (the majority of their time employed) as part of fulfilling their role in:
 - developing or implementing case management plans
 - providing other administrative duties

This includes workers who have been recruited directly by a designated agency or sourced from an external labour hire agency to perform these duties.

Children and young people are **not** recorded on the register.

What information will be held on the register?

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 register requires basic identity and probity information for all individuals. Once engaged, the agency must record where a reportable allegation has been made against the individual along with the outcome once an investigation is completed. Details of the allegation and the finding are not included.

The Residential Register outlines the minimum probity requirements to be satisfied before an individual can be engaged as a residential care worker. Given that the recruitment, training and selection processes may differ between agencies, the Residential Register contains only the necessary information to link a worker to those agencies who have engaged their services and to flag any alerts between those agencies that are engaging the same individual.

The Residential Register will not replace the formal recruitment processes which should be undertaken by an agency. It will remain the discretion of the recruiting agency to determine whether to employ an individual.

The following information is held on the Residential Register about an individual:

- Full name (and any other or previous names), date of birth, gender (if disclosed)
- If they identify as Aboriginal and/or Torres Strait Islander (if disclosed)
- Mandatory probity checks:
 - Working with Children Check (including the APP / WWC number and expiry date)
 - Nationwide Criminal Record Check
 - Other Agency Check¹
 - 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 an individual's engagement
 - The date of any current reportable allegations and any finalised outcomes (but excluding the details of these).

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 as outlined above. For detailed information about each of the probity checks please see [Guidance Summary 3 – mandatory probity checks](#).

Outcome of compulsory probity and suitability checks

The register records the outcome of probity checks for individuals 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 decision about these checks is at the discretion of the recruiting agency.

¹ Referred to as the *residential care provider check* in the Children's Guardian Regulation 2022

The register does not hold details of each probity check other than 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'.

Recording information about individuals on the register

Designated agencies accredited to arrange statutory out-of-home care are responsible for entering information about individuals who have reached the referee check stage of the recruitment process or who were already engaged to work in a residential setting at the time of commencement.

Agencies are required to inform individuals that their personal information will be entered onto the register if their application progresses to the referee check stage. Safeguards have been built into this process to ensure that individuals are informed and agree to the collection of their information for the register.

The register will not replace an agency's formal recruitment processes for engaging an individual in any form of work. Where a decision is made to engage the individual, this will become a permanent record on the register.

Who has access to information on the register?

An agency will only have access to information about those individuals it has entered onto the register. This includes those who are currently engaged by the agency as a residential care worker at the time of the register's commencement, and applicants who applied to, and were engaged by the agency following commencement of the register. The information viewable includes any current or past association the person may have with another agency.

Individuals whose personal information has been recorded on the register will be able to ask the recording agency to view that information. Individuals can request that their personal information be updated, or that incorrect information is amended. The individual should make this request directly to the agency first, and if unsuccessful, they can make a request to the Children's Guardian. The details recorded in relation to a reportable allegation are not to be provided. This is in line with section 87(4) of the *Children's Guardian Act 2019*. Instead, the recording agency is to provide more detailed information, as is appropriate and in line with its responsibilities under the Reportable Conduct Scheme more broadly.

The Children's Guardian must provide access to information held on the register, where a request is made from the Secretary of the Department, the Minister for Families, Communities and Disability Services or the NSW Ombudsman.

What if a decision is made to 'not engage' an individual?

Where the recruitment process is finalised and a decision is made to 'not engage' an individual, the record will only be visible to the recording agency. This record will not be visible to any other agency that accesses the register. A decision to 'not engage' an individual may be as a result of determining they are unsuitable, as a result of not being the preferred applicant, or due to the applicant withdrawing from the recruitment process.

After an individual is ‘engaged’, what information may be added or updated?

Changes to an individual’s personal details may be made by the agency which has engaged that person. For example, gender, Aboriginal or Torres Strait Islander identification or other names. However, if an individual has changed their primary name, they will need to make the change themselves via the WWCC system. Once this has been confirmed by the individual, the agency should re-verify the WWCC on the Residential Register and the new primary name will be populated.

Reportable allegation information

The register requires the agency that has a current engagement with a worker to enter any reportable allegations made against that worker. The register will contain the allegation date, whether the matter has been finalised or not, and once finalised, the outcome. The register will not contain any detail about the particulars of the reportable conduct matter. However, this detailed information is to be documented and held by the agency as part of its own records.

Importantly, an agency will not be able to view any reportable allegation records about the individual during the recruitment process. Where another agency is currently or has previously engaged the individual as a residential care worker, relevant information is to be exchanged via the Other Agency Check.

Where a new reportable allegation is added to the register and approved, any agency that is also currently engaging that individual will be alerted to this. At this time, each agency should consider whether they have relevant information to exchange under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*.

More information

Training is available on the administration of the Residential Care Workers Register. Further information has also been added to the OCG’s [website](#). If you have a question, please email residential-register@ocg.nsw.gov.au

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

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