

Residential Care Workers Register Guidance summary 3

Mandatory Probity Checks

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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 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.

What mandatory probity checks are required for residential care workers?

Where an individual is being considered for employment as a residential care worker, a number of mandatory probity checks need to be completed. The mandatory probity checks include:

- WWCC (including the number and expiry date)
- Nationwide Criminal Record Check
- Other Agency Check¹
- Community Services Check – to be phased in at a future date

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 via the Residential Register for these workers.

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

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.

Note: If a worker holds a NDIS worker check clearance this does not satisfy the requirement for a National Criminal Record Check. Similar to the WWCC, information is reviewed and a decision is made on whether to issue a clearance or not, external to the designated agency.

Conducting the National Criminal Record Check, reviewing any records returned, and assessing this as part of considering a worker's suitability should form part of your agency's broader recruitment process. There may be disclosable outcomes that result in a WWCC or NDIS worker clearance being issued but should be risk assessed by your agency prior to a determination being made on a worker's suitability for the role they are applying for.

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

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

What is an Other Agency Check?

When recruiting for the position of a residential care worker, agencies must enter details about an applicant onto the Residential Care Workers Register, if the applicant reaches the referee check stage of the application process. The agency is then required to conduct a number of mandatory probity checks. One of these is the Other Agency Check². This is also required when a worker is being considered for **re-engagement** as a residential care worker.

The Other Agency Check is required if the applicant or worker being considered for re-engagement:

- is currently or was previous engaged by an agency, AND
- an agency has indicated it holds relevant information about the individual to exchange.
- This is evident in the list of agency associations as those with the *declaration checkbox* next to the association record.

If this occurs, the agency is required to contact those agencies to request the relevant information they hold about any risk the individual may pose to the safety, welfare or wellbeing of children and young people. Requests for, and the provision of, such information are permitted under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*.

This exchange of information supports the agency to determine whether to engage the individual. For an individual to be engaged as a residential care worker, the outcome of this check (along with other probity checks) must be assessed as 'satisfactory', which is at the agency's discretion.

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 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 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'.

More information

² Referred to as the *residential care provider check* in the Children's Guardian Regulation 2022

Agencies should refer to the OCG's Guidance notes and summaries developed to support their management of the Residential Care Workers Register. The Guidance materials can be accessed from the [residential register section](#) of the OCG website.

If you have a question about the Residential Care Workers Register, please email the Carer and Residential Worker Monitoring Team at the OCG via 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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