

Residential Care Workers Register Guidance summary 4

Relevance to foster care agencies

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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 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.

This guide should be read in conjunction with Guidance summary 1 – General overview. The summary details who is to be captured and the information to be entered onto the register.

Relevance to foster care agencies

The Residential Care Workers Register will apply to the statutory out-of-home care sector. While most of the work required is for designated agencies accredited to arrange residential care, there is potential work for all agencies.

There are two situations most relevant to agencies accredited to arrange foster care. These include where a child who is usually placed with and cared for by a foster, relative or kinship carer, is accommodated in some sort of temporary accommodation such as a hotel or serviced apartment, supported by a worker for:

1. respite or in an emergency situation until an alternative placement is secured, or
2. other reasons such as to facilitate birth family contact or attendance at an appointment.

Where a worker is engaged to supervise a child during an overnight stay (or longer) in one of the situations above, they are considered a residential care worker under the *Children's Guardian Act 2019*. These workers must be entered onto the Residential Register and engaged before they provide this type of care.

Do all foster care agencies need to access the register?

All designated agencies, regardless of the service type they are accredited for, should complete the registration process to access the register. This will help agencies to be prepared for those situations where a residential care worker is required to provide care to a child and must be entered onto the register in order to provide that care.

What is required if a foster care agency needs to place a child in a hotel or similar?

If a child usually placed with a foster, relative or kinship carer, needs to be accommodated and cared for in a hotel, motel or other temporary accommodation with a worker, this is considered residential care. Any worker who is approved by a designated agency to supervise this type of placement is considered a residential care worker under the *Children's Guardian Act 2019*. The designated agency must enter the worker onto the register and complete all the necessary probity checks before they are able to provide care to a child.

Designated agencies should be aware of, and plan for, these situations. This could include having completed the recruitment for a pool of individuals and entering them onto the Residential Register so they can be called upon where the circumstances require this.

What is required in an emergency when an agency doesn't have an approved worker already entered onto the register?

Designated agencies are expected to plan for emergencies, and wherever possible have backup staff already entered onto the register and engaged as a residential care worker. However, the Office of the Children's Guardian appreciates that this may not always be possible.

More details are available in the *Guidelines for the engagement and authorisation of staff and contractors in an emergency or when sourced from a labour hire agency*.

Section 6 of the Children's Guardian Regulation 2022 provides for a short-term, one-off, exemption where a staff member or contractor is approved by the designated agency to care for a child in an emergency. The residential care can be provided for up to 72 hours only, without the worker having to have been entered and engaged as a residential care worker on the register. The worker can only be used in these types of scenarios once by any designated agency.

The exemption may be applied:

- in an emergency, where the designated agency does not have a residential care worker already entered onto the register and available to care for the child, and
- the worker is authorised under section 22 of the Children and Young Persons (Care and Protection) Regulation 2022, and
- the designated agency has not previously exempted the worker (an agency can only exempt a worker once), and
- the designated agency notifies the Children's Guardian **within 72 hours of the authorisation** in line with Section 6(2) of the Children's Guardian Regulation 2022¹
- An agency may only apply the exemption once to any worker. Once applied, and after the 72 hours has been reached, the individual must be entered onto the register and engaged as a residential care worker, before being permitted to work with a child in residential care again.

What is required if a foster or relative carer is staying in a hotel with a child?

In a situation where a child and their authorised foster, relative or kinship carer need to be accommodated in a hotel or similar, this placement would continue to be considered home-based care, as the carer continues to be the person primarily responsible for the child. If the child stays overnight with their foster, relative or kinship carer, that carer does not need to be recorded on the Residential Register.

More information

Training is available on the administration of the Residential Care Workers Register. More information can also be found on our [website](#). If you have a question, please email residential-register@ocg.nsw.gov.au

For information about the other regulatory responsibilities of the Office of the Children's Guardian, 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

¹The notification should be made using the online form which is accessed via the OCG website

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