

# Service agreements with external agencies

A guide for designated agencies

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Where staff are sourced from an external labour hire agency, designated agencies must have a written service agreement with that external agency. The agreement must ensure the responsibilities of each party are clear and the legislative requirements for the recruitment, and engagement, of a residential care worker are met.

This guide should be read in conjunction with the OCG's *Guidelines for the engagement and authorisation of staff and contractors in an emergency or when sourced from a labour hire agency*. The guide should be used:

- To assist your agency in developing or reviewing your Service Agreement with an external agency such as a labour hire agency, and
- When submitting your Service Agreement to the OCG for assessment. The relevant clauses/sections of the agreement will need to be identified.

The below outlines what the Service Agreement must cover, at a minimum.

**Conducting probity checks**

Agreement regarding who will undertake each of the screening and probity checks for the worker including:

- WWCC
- NPC
- Other Agency Check
- CS Check – to be phased in at a future date

Note – only a prescribed body can request and receive information as part of a CS Check and Other Agency Check as these are supported by Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*.

Note – the residential care provider is required to verify the WWCC and make a determination about the outcome of an NPC.

**Assessment and information sharing**

A clear process for how information returned from any screening checks conducted by the external provider are assessed and shared with the designated agency.

**Reportable allegations**

If child protection allegations which may be reportable allegations are made against an employee who is:

- engaged by the designated agency through an external agency, and
- the alleged conduct is **work-related**, and
- the alleged conduct becomes known to the agencies while the employee is still engaged with them,

there is a Memorandum of Understanding<sup>1</sup> between the agencies which sets out:

- that the external agency must inform the designated agency of any child protection allegations or concerns against an employee being engaged by the designated agency immediately by phone, with the details to be confirmed in writing within 24 hours
- the name and contact details of the relevant contact person at the external agency and the designated agency
- how information will be shared when a reportable allegation is raised and who will be responsible for ensuring this information is shared (including clear timeframes)
- that the external agency will not approach the employee about any child protection allegations without first discussing this with the designated agency
- that both agencies will fulfil any mandatory reporting or police reporting requirements, but the designated agency will be nominated as the liaison with Police and DCJ
- that the designated agency will take the lead in investigating reportable allegations against the employee
- the designated agency will be responsible for risk management as it relates to the children and young people in that agency's care, the

<sup>1</sup> This agreement can be included within the written Service Agreement developed by the designated agency and external labour hire agency. This does not need to be a separate agreement.

agency's duty of care, and in connection with the reportable conduct investigation; the external agency will be responsible for risk management in connection with the employee's ongoing employment and engagement with other organisations

- that the designated agency will be responsible for communicating with the employee and the external agency throughout the course of the reportable conduct investigation and fulfilling its procedural fairness obligations to the employee throughout the course of the investigation and in respect of any decision-making relating to findings and action taken
- that the external agency will be responsible for communicating with the employee about any employment action it intends to take in response to the reportable conduct investigation and findings

If a child protection allegation which may be a reportable allegation is made against an employee who is:

- engaged by the designated agency through an external agency, and
- the alleged conduct is **NOT work-related** but occurs during a period of the employee's engagement by the designated agency, and
- the alleged conduct becomes known to the agencies while the employee is still engaged by the agencies

there is an MOU between the agencies which sets out:

- the name and contact details of the relevant contact person at the external agency and the designated agency
- that whichever agency learns of the reportable allegation has an obligation to inform the other agency immediately by phone with the details to be confirmed in writing with the relevant contact person within 24 hours.
- that the external agency will not approach the employee about any child protection allegations without first discussing this with the designated agency
- that both agencies will fulfil any mandatory reporting or police reporting requirements, but the designated agency will be nominated as the liaison for Police and DCJ
- that the designated agency will take the lead in investigating reportable allegations against the employee
- the designated agency will be responsible for risk management as it relates to the children and young people in that agency's care, the agency's duty of care, and in connection with the reportable conduct investigation; the external agency will be responsible for risk management in connection with the employee's ongoing employment and engagement with other organisations
- that the designated agency will be responsible for communicating with the employee and the external agency throughout the course of the reportable conduct investigation and fulfilling its procedural fairness obligations to the employee throughout the course of the investigation and in respect of any decision-making relating to findings and action taken
- that the external agency will be responsible for communicating with the employee about any employment action it intends to take in response to the reportable conduct investigation and findings

### **Suitability and preparation of workers**

Agreed roles and responsibilities for ensuring that staff sourced from an external agency and engaged by the designated agency:

- are informed of the Residential Care Workers Register, and if relevant, the limited exemption available under the Children’s Guardian Regulation 2022<sup>2</sup>.
- satisfy the designated agency’s requirements around minimum qualifications, training or experience, including around managing challenging behaviours and DCJ contractual requirements
- have appropriate experience in caring for vulnerable children and young people,
- have a demonstrated understanding of their child protection obligations and responsibilities,
- are inducted and trained by the designated agency,
- are informed about keeping information about children and young people confidential and who will hold this responsibility,
- are provided with information about their roles and responsibilities when working as a residential care worker with your designated agency,
- have signed the designated agency’s code of conduct, and agreed to abide by any relevant designated agency policies and procedures prior to any engagement,

are provided with information about the needs of the individual children and young people who they will be caring for.

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<sup>2</sup> As per Section 6 of the Children’s Guardian Regulation 2022