

# Residential Care Workers Register - Guidance summary 2

## Information exchange – Other Agency Check

July 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.

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## 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 Check<sup>1</sup>.

The Other Agency Check is required if the applicant has a current association with another agency or a past association, and that agency has indicated they hold relevant information to exchange.

If this occurs, the agency is required to contact the other agencies to request 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 is 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.

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## What is the legislative base for completing this check?

Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* prioritises the safety, welfare, and wellbeing of a child or young person over an individual's right to privacy. It allows information to be exchanged between prescribed bodies despite other laws that prohibit or restrict the disclosure of personal information. Provisions of Chapter 16A have been in place since 2009.

With the introduction of the Residential Register, out-of-home care providers are required to request and exchange relevant information for the purpose of assessing the suitability of individuals to be engaged as a residential care worker.

The Children’s Guardian Regulation 2022 specifies when information relating to the safety, welfare or wellbeing of children and young people must be requested and how requests for information must be made, by using the approved form<sup>2</sup>.

There are several thresholds to be met in order to exchange information under Chapter 16A. Each of these thresholds are met with the design of the Residential Register and the requirement for the Other Agency Check. This includes that:

- Information can only be exchanged between prescribed bodies. Those agencies with access to the Residential Register (designated agencies) are all prescribed bodies.
- The information must relate to the safety, welfare or well-being of a particular child or young person or class of children or young persons. This includes that it must be for the purpose of assisting the requesting agency to manage any risk to the child or young person (or class of children or young persons) that might arise in the agency’s capacity as an employer or designated agency.

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<sup>1</sup> Referred to as the *residential care provider check* in the Children’s Guardian Regulation 2022

<sup>2</sup> The form approved by the Children’s Guardian must be used to conduct this check. The form can be located on the OCG website.

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## What information may be requested or exchanged?

Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* provides that relevant information may be exchanged between one prescribed body and another where this information relates to the safety, welfare or wellbeing of a child or young person or class of children and young people. This information may be shared to help:

- make any decision, assessment or plan or to initiate or conduct any investigation, or to provide any service, relating to the safety, welfare or well-being of the child or young person or class of children or young persons, or
- manage any risk to the child or young person (or class of children or young persons) that might arise in the recipient's capacity as an employer or designated agency.

The approved form, including a protocol and template developed by the OCG helps to support requests for, and the provision of, information as part of the Other Agency Check by outlining some of the key information to consider. These are all available on the OCG website.

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## What information may be shared about reportable allegations?

All allegations against employees (including residential care workers) may be shared where they are:

- reportable allegations within the meaning of section 18 of the *Children's Guardian Act 2019*, or
- allegations of conduct of a class or kind exempt from being reportable conduct under section 30 of the *Children's Guardian Act 2019*.

When the Residential Register shows a reportable allegation record as either 'Current' or 'Finalised – contact agency', relevant information can be exchanged when conducting the 'Other Agency Check', where the information relates to the safety, welfare or wellbeing of a child or young person or class of children.

Refer to the *NSW OCG reportable allegations business rules* on the OCG website for further information.

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## Do agencies need to get consent before exchanging information about individuals?

When an individual's application to be engaged as a residential care worker progresses to the referee check stage of the application process, the applicant will need to agree to, and provide consent for, the collection and entry of their personal information on the Residential Register. The applicant will have the opportunity to review general information about the register prior to giving their consent, by looking at various guidance summaries prepared by the OCG and accessed from the [OCG website](#).

Once entered onto the Residential Register, the agency is required to conduct a number of mandatory probity checks. This includes the 'Other Agency Check'. Consent is not required to request and exchange information as part of this process as this is authorised by law.

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## More information

Agencies should refer to the OCG's Guidance Summaries developed to support their management of the Residential Care Workers Register. The Guidance Summaries can be accessed from the OCG [website](#).

If you have a question about the Residential Care Workers Register, please email the Registration Systems Team at the OCG via [residential-register@ocg.nsw.gov.au](mailto: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](http://www.ocg.nsw.gov.au)

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