

# Residential Care Workers Register - Other Agency Check

Protocol

July 2022

---

# The Residential Care Workers Register

The Residential Care Workers Register (the Residential Register) will support better information sharing between designated agencies within the statutory out-of-home care sector. It requires designated agencies to record limited information (relevant to the safety, welfare and wellbeing of children and young people) about all individuals who have applied for (and reached the referee check stage) or are engaged as a residential care worker in NSW. A residential care worker is an individual who fits within the criteria outlined in the Children's Guardian Regulation 2022<sup>1</sup>.

The Other Agency Check<sup>2</sup> will assist agencies to make an informed decision about the suitability of an individual to provide care to children and young people in residential care. Importantly, agencies must undertake their own suitability check and assessments using information from the Residential Register and other sources.

---

## What is an Other Agency Check and how should information be shared?

Designated agencies arranging residential care are required to exchange relevant information for the purpose of assessing an individual's suitability to be engaged, or continue to be engaged, as a residential care worker. The provider must undertake this check for applicants who have progressed to the referee check stage of the application process.

Once initially entered, the Residential Register will indicate whether the individual has a current or past association as a residential care worker with another designated agency and whether an Other Agency Check is required as part of the recruitment process. This will be mandatory where the individual is currently engaged by an agency, or where an individual has a past association, and that previous employing agency has indicated they hold relevant information to exchange.

The Other Agency Check is one of the mandatory probity checks for applicants and is a request for and subsequent exchange of any information held by the other designated agency **relating to the safety, welfare or wellbeing of children and young people**. The purpose of this check is to ensure information relevant to the assessment of an individual to be engaged as a residential care worker is shared between agencies.

A request should only be sent to those agencies where the Residential Register indicates this is a requirement.

Each designated agency should ensure they have a process to approve the request for, and provision of information as part of the Other Agency Check. Agencies approved to access the Residential Register are required to have an email address for managing information exchange. It is recommended that agencies use this email address to request and provide information as part of the Other Agency Check.

This will in part ensure that any request is a legitimate one. The email addresses for each designated agency are listed on the register and can be viewed by all agencies.

---

<sup>1</sup> Section 4 of the Children's Guardian Regulation 2022

<sup>2</sup> Referred to as a *residential care provider check* in the Children's Guardian Regulation 2022

---

## Legislative Framework

The exchange of information as part of the Other Agency Check is permitted under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* (the Care Act).

Chapter 16A of the Care Act 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 (designated agencies are prescribed bodies) despite other laws that may prohibit or restrict the disclosure of personal information.

Section 245D, in Chapter 16A of the Care Act, allows one prescribed body to provide information to another prescribed body in response to a request for information. The Other Agency Check relies upon the process for requesting information relating to the safety, welfare or wellbeing of a child or children and the agency receiving a request for information as part of the Other Agency Check then providing this relevant information, if the agency reasonably believes it would assist the requesting agency to:

- 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.

Under section 245C, in Chapter 16A of the Care Act, a designated agency may proactively provide information to another designated agency, irrespective of whether a formal request has been made to provide the information. If an agency holds any information relevant to the safety, welfare or wellbeing of a child or class of children, it is permitted to share this with another prescribed body without receiving a request. However, this proactive disclosure of information would be done via existing processes established within the agency, rather than using the prescribed forms for the Other Agency Check.

A prescribed body may exchange any information they hold, including that which has been received from other sources, where this is relevant to the safety, welfare and wellbeing of children and young people.

For further information on Chapter 16A, please see [the Keep Them Safe eLearning modules provided by the NGO Learning Centre](#).

---

## Consent

Consent is not required as information exchange for the purpose of the Residential Register is authorised by law. However, where practicable and appropriate, it is best practice to inform an individual when specific information about them will be disclosed to another agency.

Designated agencies should inform individuals that:

- their information will be entered onto the Residential Register and
- they have the right to view and request corrections to information entered onto the Residential Register.

---

## What form should be used to request and exchange information?

Under the Children’s Guardian Regulation 2022, agencies must complete the Other Agency Check using the form approved by the Children’s Guardian. Two forms have been developed for these requests which will support consistent practice across the sector.

The appropriate form will depend on whether you are requesting, or responding to a request for, relevant information:

- Part 1 – Agency requesting information
- Part 2 – Agency recording and providing information

This protocol and the approved forms are available on the Office of the Children’s Guardian [website](#).

---

## Timeframe for responding to a request

Where a request has been received and an agency is preparing the relevant information for exchange about an individual who is *currently* or was *previously* engaged with the agency, the request should be completed using the Part 2 form, within **5 working days**<sup>3</sup> of receipt of the request. This timeframe is set so as not to delay the recruitment process of any agency. This timeframe will be best achieved by agencies recording relevant information at the completion of a reportable conduct investigation and at the conclusion of a person’s employment as a residential care worker, so that it is ready for exchange upon receiving a request.

---

## Information to be shared

In the Part 2 form, ***Information to be exchanged***, four subheadings have been provided to support agencies to identify relevant information to exchange. This is a guide only for agencies to consider what relevant information they may hold.

1. Reportable conduct reported to the NSW Office of the Children’s Guardian or covered under a Class or Kind Agreement
  - Allegations of harm which fall within the categories of reportable conduct in the *Children’s Guardian Act 2019* may indicate an ongoing risk to the safety, welfare and wellbeing of children and young people.
  - When performing an Other Agency Check, agencies should exchange information relevant to the safety, welfare or wellbeing of children and young people who reside in residential care.
  - Relevant reportable allegation information will include any current reportable conduct investigations or completed investigations with the outcome ‘Finalised – Contact Agency’.
  - Information should include details of the allegation and investigation and how this is relevant to the safety, welfare and wellbeing of children and young people.
  - If they wish, agencies may consult with the Reportable Conduct Directorate at the OCG to discuss what information is appropriate to exchange in relation to reportable allegations.
2. Workplace misconduct

---

<sup>3</sup> A timeframe of 5 working days was agreed to by the Residential Register Working Group, comprising of representatives from the OOHC sector. This timeframe should be adhered to by all designated agencies to support the delivery of residential care to children and young people in statutory OOHC.

- This may include information about complaints or allegations which do not fall within the definition of reportable conduct but raise concerns that the individual may pose an ongoing risk to the safety, welfare or wellbeing of children and young people.
- Misconduct may be described as unacceptable or improper behaviour by an employee and includes allegations that an employee has neglected or mismanaged their duties which places the safety, welfare or wellbeing of children and young people at risk.
- The outcome of any investigation should be noted in order to detail what action the agency has taken and/or what action was required by the individual as part of the risk assessment to ensure the safety of children and young people.

### 3. Performance management issues

- When an employee or volunteer is engaged to perform a particular role, they are required to abide by a Code of Conduct or Role Description. Concerns that the individual is not performing their role as agreed may highlight a performance management issue.
- A performance management issue will not necessarily place children and young people at risk, and it is important that only those concerns which relate to the safety, welfare or wellbeing of children and young people are exchanged.
- The outcome of any investigation should be noted in order to detail what action the agency has taken and/or what action was required by the individual as part of the risk assessment to ensure the safety of children and young people.

---

**Example** – A residential care worker may, on a regular basis, not complete shift reports with the required details, resulting in information not being shared between workers. This can place those children and young people being supervised at risk.

**Example** – A residential care worker is routinely late to work, causing frustration with other staff. Whilst this may be a cause for concern in relation to performing their duties, it is less likely that such behaviour is placing children and young people at risk. This information is not appropriate to share as part of an Other Agency Check but may be shared through a request for a referee report.

---

### 4. Any other relevant information

- If an agency holds any other information which is relevant to the safety, welfare or wellbeing of children and young people, this may be detailed here.

The Fair Work Ombudsman website provides explanations of underperformance and misconduct within the workplace which may assist an agency to identify what this may look like.

---

## Can the forms be used at other times?

### Part 1

This form is only relevant where an agency is conducting an Other Agency Check for an applicant residential care worker.

### Part 2

At the time of ending the engagement of a residential care worker, agencies are required to update the Residential Register to reflect this. The agency is also required to note whether they hold information relevant for exchange with another residential care provider should a request be received in the future.

- Where the agency holds information relating to the safety, welfare or wellbeing of children and young people, the agency may wish to complete the relevant sections in Part 2 at this time. The agency may also wish to record information at the time of completing an

investigation e.g., where a reportable conduct matter is finalised. Although it is not a legislative requirement, recording this information at the time will help to promote accuracy and currency of information. It will also assist the agency in responding to any future requests, as this information will already be recorded.

---

## Other Agency Check – Approved forms

The Other Agency Check form is made up of two separate parts:

### Approved form

### When is this completed?

---

Part 1 – Agency requesting information

This is completed by the agency making a request for an Other Agency Check from another agency, at the time of the request.

Part 2 – Agency recording and providing information

This is completed by the agency who holds the relevant information and is providing this to another agency at their request. The forms should be completed:

- in response to a request received, within 5 working days, or
- at the time of completing an investigation into the worker's behaviour, where the agency has identified relevant information to exchange with another agency in the future, or
- at the time of ending the engagement of a residential care worker, where the agency has identified relevant information to exchange with another agency in the future.

**Note** – If recorded at the time of ending an engagement, the agency should ensure they file this in a way that it can be easily located and updated once a request is received.

**Disclaimer:** The material provided in this protocol is for guidance only. Every effort has been made to ensure that the information is accurate, current and not misleading. However, this cannot always be guaranteed, and no warranty is given that the information is free from error or omission. Users should exercise their own skill and care with respect to the use of the material. The information is also not a substitute for independent legal or other professional advice and users should obtain appropriate professional advice relevant to their particular circumstances.

The Office of the Children's Guardian does not guarantee and accepts no legal liability whatsoever for any act done, omission made, loss, damage, cost or inconvenience arising from, connected to, or as a consequence of, using or relying on the material contained in this protocol.