

Monitoring factsheet

Specialised substitute residential care



Information for specialised substitute residential care providers about the monitoring and compliance processes of the Office of the Children's Guardian, and what to expect if you are selected for monitoring.



We monitor providers under the
Children's Guardian Act 2019 and
Children's Guardian Regulation 2022.

Your legal obligations

Providers have important legal obligations around specialised substitute residential care (SSRC), including:

- complying with the SSRC Code of Practice
- working towards implementation of the Child Safe Standards in your organisation
- keeping us informed of any changes to your contact details, including changes to your principal officer or SSRC co-ordinator, NDIS registration and services provided.

Why we monitor providers

Our monitoring activities are part of our capability building role, aimed at giving providers objective assessments as to how they are meeting both the Child Safe Standards and the SSRC Code of Practice.

We conduct monitoring and compliance activities to keep children safe by ensuring providers understand and comply with their legal obligations under the Child Safe Scheme, including the SSRC Code of Practice. We may also conduct investigations to address non-compliance with the SSRC Code of Practice.

Our focus in the first instance is on capability building and helping providers in understanding and meeting their legal obligations. We also offer a wide range of training and resources for providers.

Our monitoring activities

We may conduct any of the following monitoring activities to best ensure providers are complying with their obligations:

- desktop reviews of provider's policies, statements and procedures as required under the SSRC Code of Practice and the broader Child Safe Scheme
- telephone or online interviews with the head of the agency
- site visits
- file audits, including records required under the SSRC Code of Practice
- review of information and records kept by the Office of the Children's Guardian.

We may also decide to issue providers with a monitoring assessment report to provide guidance and make recommendations for change.

The powers of a Child Safe Officer

The *Children's Guardian Act 2019* permits our staff to:

- review your organisation's systems, processes and policies
- request the head of your organisation to answer questions and provide specified information
- review information held by the Children's Guardian about your organisation and its employees
- with the consent of the head of your organisation, inspect your organisation's premises
- direct the head of your organisation to complete a self-assessment of the organisation's compliance with the Child Safe Standards.

Your responsibilities during monitoring

As a provider, you have responsibilities under the law, and refusing to participate in monitoring may lead to legal action for non-compliance with the law.

Your responsibilities include:

- providing us with information or documents when requested
- participating in phone and online interviews when requested
- participating in site visits when requested
- responding to recommendations under a monitoring assessment report or investigation report within the timeframe specified in the report
- complying with any compliance notices or enforceable undertakings that may apply.

During monitoring activities, you can:

- ask for a reasonable extension on the time to produce your records. Requests will be assessed on a case-by-case basis
- negotiate the time and date of any interviews or site visits
- expect the Child Safe Officer to be professional and courteous
- involve your legal or other representative in the process
- ask how long monitoring will take
- expect the matter to be treated with strict confidentiality
- expect to be given the opportunity to explain the reasons for any identified non-compliance.

What happens if a provider is not compliant

Our focus in the first instance is on capability building and helping you meet your obligations, and we will work with providers to improve the quality and safety of services they provide to children and young people.

However, we can take enforcement action against a provider if we reasonably believe the provider's policies, processes or actions do not reflect or implement the Child Safe Standards or SSRC Code of Practice, including where

a provider does not adequately respond to recommendations in a monitoring assessment response.

Where we have directed an SSRC provider to do or refrain from doing certain actions and the provider has not complied which may result in serious risk to the safety of children and young people, we may commence an investigation to determine an enforcement action including:

- issue a compliance notice to the organisation

- accept an enforceable undertaking from the organisation.

Where a compliance notice is issued or an enforceable undertaking is entered into, details will be published on our website.

If a provider fails to comply with a compliance notice or enforceable undertaking, the Children's Guardian may issue penalty notices.