



Residential Care Workers Register

Guidance note 1

Overview

About the NSW Office of the Children's Guardian (OCG)

The OCG is an independent, statutory authority committed to delivering better outcomes for children and young people living in out-of-home care (OOHC).

We accredit and monitor the performance of agencies that arrange statutory and supported OOHC and adoption services. We also register and monitor agencies that provide, arrange, or supervise voluntary OOHC. The OCG is a regulator, not a provider of care services.

The OCG is establishing a Residential Care Workers Register to prioritise the safety, welfare and well-being of children and young people in residential care by facilitating information exchange to ensure that only suitable workers are engaged to provide residential care in NSW.

Why establish a Residential Care Workers Register?

In its final report of December 2017, the Royal Commission into Institutional Responses to Child Sexual Abuse recommended that each jurisdiction should establish a register of residential care workers as a means of improving the safety of children and young people in out-of-home care.

Agencies have also raised concerns that there has been potential for unsuitable staff working in residential care to easily move between agencies, particularly where they are engaged by more than one agency at the same time. This also includes situations where an individual may be the subject of a workplace misconduct investigation or performance management processes and seeks employment with another agency before an investigation is finalised.

The NSW Residential Care Workers Register (the register) will provide a mechanism for agencies to exchange information relevant to the safety, welfare or wellbeing of children and young people. This will help agencies decide whether an individual is suitable to provide care to children and young people in residential care. The register will be a secure, restricted-access database which will hold information about those individuals who have reached the final stages of the recruitment process and those who have been engaged as residential care workers.

Whose information will be recorded on the register?

The register will hold information about those workers who provide and are responsible for the care of children and young people in a residential care setting.

This will generally include:

- workers who provide direct care and supervision to a child or young person (or group of children and young people) during a rostered shift
- staff who spend most of their time employed by the designated agency within the residential care setting as part of fulfilling their role (including those providing administrative duties or case support).

Children and young people are **not** recorded on the register.

What information will be held on the register?

The OCG established a Working Group of self-nominated sector representatives in 2018. The consultation with this Working Group has informed the design of the register as well as the proposed cohort and information to be captured. Consultation is continuing in order to finalise the legislation to support the register.

The register will record personal information about individuals who have reached the final stages of a recruitment process and those who have been engaged as residential care workers. The register will require basic identity and probity information for all individuals. Once engaged, the agency will record when a reportable allegation has been made against the individual along with outcomes once an investigation is completed. Details of the allegation and the finding will not be included.

The register outlines the minimum requirements to be satisfied before an individual can be engaged as a residential care worker. Given that the recruitment, training and selection processes may differ between agencies, the register will contain only the necessary information to link a worker to those agencies who have engaged their services and to flag any alerts between those agencies that are engaging the same individual.

The register will not replace the formal recruitment processes which should be undertaken by an agency. It will remain the discretion of the recruiting agency to determine whether to employ an individual.

The following information will be held on the register about an individual:

- Full name, date of birth, gender and any other or previous names
- If they identify as Aboriginal or Torres Strait Islander
- Mandatory probity checks:
 - Working With Children Check (including the WWC number and expiry date) – for new and existing workers
 - Nationwide Criminal Record Check – for new and existing workers
 - Other Agency Check – for all individuals engaged after the commencement of the Register
 - Community Services Check – for new and existing workers. For existing workers, this check will need to be completed within 12 months of the register commencing
- Decision to engage or not engage an individual
- Once engaged:
 - The commencement and end dates of an individual's engagement
 - The date of any current reportable allegations and any finalised outcomes (but excluding the details of these).

Mandatory Probity Checks

Details of each of the mandatory probity checks is outlined below.

Working With Children Check

A Working With Children Check (WWCC) is mandatory for any person aged 18 or over in paid or unpaid, child-related work. It involves a national criminal history check and a review of relevant findings of misconduct.

The result of a finalised WWCC application is either a clearance to work with children for five years, or a bar against working with children. Cleared individuals are subject to ongoing monitoring, and relevant new records may lead to the clearance being revoked before the five-year expiry date.

PLEASE NOTE: Individuals engaged to work in child-related work such as in residential care are required by law to obtain a WWCC. Agencies are required to verify all WWCCs.

Nationwide Criminal Record Check

It is a condition of a designated agency's accreditation for providing statutory out-of-home care that it must undertake a Nationally Coordinated History Check (National Police Check) for all employees, contractors and volunteers in child-related work in residential care. For more information, go to www.police.nsw.gov.au.

Community Services Check

A Community Services Check is a review of relevant information about an individual held by the Department of Communities and Justice. Examples of information reviewed includes information on the KiDS and ChildStory databases, risk of significant harm reports, allegations of reportable conduct and outcomes of investigations.

Other Agency Check

An agency conducting recruitment for an individual will be able to see on the register whether that person has a current or past association with another agency as a residential care worker. The recruiting agency will be required to contact these agencies to request relevant information they have in relation to any risk the individual may pose to the safety, welfare or wellbeing of children and young people. This exchange of information is permitted under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*.

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. This will help the recruiting agency decide whether the individual is suitable to be engaged as a residential care worker.

Outcome of compulsory probity and suitability checks

The register will record the outcome of probity checks for individuals and will not permit an individual to be engaged until the agency declares that all required checks and assessments have been satisfactorily completed.

The register will not hold details of each probity check other than the outcome (satisfactory or unsatisfactory). However, agencies are required to maintain records within their own agency files so that this may be shared with other agencies during an 'other agency check'.

Recording information about individuals on the register

Agencies will be responsible for entering information about individuals who have reached the final stages of a recruitment process or who have been engaged to work in a residential care setting.

Agencies will be required to inform individuals that their information will be entered onto the register if their application progresses to the stage where referee checks are being conducted. Safeguards will be built into this process to ensure that individuals are informed and agree to the collection of their information for the register.

The introduction of the register will not replace an agency's formal recruitment processes for engaging an individual in any form of work. Where a decision is made to engage the individual, this will become a permanent record on the register.

The OCG will establish the register in accordance with section 85(1)(b) of the *Children's Guardian Act 2019*.

Who will have access to information on the register?

An agency will only have access to information about applicants who are currently engaged by the agency as a residential care worker and/or previous residential care workers engaged by the agency. This includes being able to view any current or past association the person may have with another agency.

Individuals who are engaged by an agency will be able to request information about themselves held on the register. Individuals can request that their personal information be updated, or that incorrect information is amended. The individual should make this request directly to the agency (in the first instance) and if not satisfied with the response, the individual can make a request to the Children's Guardian. Details of a reportable allegation and investigation are provided in line with Part 4 of the *Children's Guardian Act 2019*.

What if a decision is made to not engage an individual?

Where the recruitment process is finalised and a decision is made to 'not engage' an individual, the record will only be visible to the recording agency. This will not be visible to any other agency that accesses the register.

After an individual is engaged, what information may be added or updated?

Changes to an individual's personal details may be made by the agency which has engaged that person.

Reportable allegation information

The register will require the agency who has a current engagement with an individual to enter any reportable allegations made against the worker. The register will record the allegation date, whether the matter has been finalised or not, and the outcome. The register will not contain any detail about the particulars of the reportable conduct matter. However, this detailed information is to be documented and held by the agency as part of its own records.

Importantly, an agency will not be able to view any reportable allegation records about the individual during the recruitment process. Rather, where another agency is currently or has previously engaged the individual as a residential care worker, relevant information is to be exchanged via the Other Agency Check.

Where a new reportable allegation is added to the register and approved to be viewable, any agency that is also currently engaging that individual will be alerted to this. At this time, each agency should

consider whether they have relevant information to exchange under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*.

More information

Agencies will have training available to them on the administration of the Residential Care Workers Register. Further information will also be added to the OCG's website when the register commences. If you have a question, please email residential-register@kidsguardian.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.kidsguardian.nsw.gov.au.

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