

## Statutory out-of-home care and adoption Accreditation and Monitoring

# COVID-19 response

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### Authorisation of staff to provide foster care during the COVID-19 pandemic

The World Health Organisation has officially declared COVID-19 (often referred to as the “novel coronavirus”) as a global pandemic.

The challenges posed by COVID-19 are unprecedented and Office of the Children's Guardian (OCG) is committed to supporting out-of-home care providers to respond to this health crisis and ensure the safety, welfare and wellbeing of children and young people, their carers and staff.

This factsheet sets out steps designated agencies may take to allow for staff to provide temporary foster care to children and young people only in the event of a severe staff or carer shortage as a result of the COVID-19 outbreak.

### Provisional authorisation of staff as foster carers in an emergency

Clause 31 of the Children and Young Persons (Care and Protection) Regulation 2012 (the Regulation) may be used to authorise staff known to a child or young person as that child or young person's provisional foster carer, to provide continual care for the child or young person in a private capacity. Continuous care is care which is provided 24 hours a day, for days or weeks at a time.

The care may be provided at the staff members' own home or at the child's residential care facility.

A staff member provisionally authorised as a foster carer may provide care to more than one child or young person in statutory out-of-home care, in an emergency arising from the COVID-19 outbreak **and** where the relevant staff member is known to all of the children and young people for whom they are providing direct care.

### Requirements when provisionally authorising staff under clause 31

This application of clause 31 to authorise staff as foster carers in a COVID-19 emergency may only be used for staff directly employed by the designated agency who are known to the child or young person.

External contracted staff (such as staff engaged through an external labour hire organisation) may not be provisionally authorised as foster carers.

Staff provisionally authorised as foster carers under clause 31 must have a valid Working With Children Check, verified online by the designated agency authorising them. It is strongly recommended that a National Criminal Record Check be conducted for the carer.

The designated agency must also be satisfied that the staff member is safe and suitable to be authorised as a foster carer on a provisional basis.

Staff provisionally authorised as foster carers under clause 31 must be entered onto the Carers Register, and staff must consent to their information being entered on to the Register.

Please refer to resources on the OCG's website regarding Carers Register requirements:

<https://www.kidsguardian.nsw.gov.au/statutory-out-of-home-care-and-adoption/nsw-carers-register>

### Agencies accredited to provide residential care only

If your agency is accredited to provide residential care but is *not* accredited to provide foster care, please contact the OCG's Carers Register Team on [Carers-register@kidsguardian.nsw.gov.au](mailto:Carers-register@kidsguardian.nsw.gov.au) or by telephone on (02) 8219 3600 to arrange registration. When your organisation is no longer facing severe staffing shortages and provisional authorisation of staff as foster carers is no longer required, please contact the Carers Register team to arrange for your organisation's registration to be cancelled.

### Care environment

If the continuous care is being provided by the provisionally authorised carer at the child or young person's residential care facility, the carer is taken to be residing at the residential care facility, and the address of the residential care facility is taken to be the carer's home when entering the carer's address details on the Carer's Register.

If care is provided at the provisionally authorised carer's private home (not at the child's residential care facility), the carer's private home address must be entered on to the Carers Register and the following must be completed:

- a household safety check must be conducted of the carer's home
- all members of the carer's household must be entered on to the Carers Register and
- all adult members of the carer's household must have a valid Working With Children Check, verified online by the designated agency authorising the carer.

### Arrangements when the COVID-19 emergency has resolved

Under the Regulation, a person provisionally authorised as a foster carer is taken to have made an application to become a fully-authorised foster carer<sup>1</sup>. The Regulation requires provisionally authorised carers to take all reasonable steps to become fully authorised<sup>2</sup> and of the Children's Guardian may direct a designated agency to cancel a provisional authorisation that has continued for three months or more<sup>3</sup>.

However, given the unprecedented challenges posed by the COVID-19 outbreak and the importance of continuing to meet the safety, welfare and wellbeing of children and young people, the OCG considers it

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<sup>1</sup> Clause 31(11) of the Children and Young Persons (Care and Protection) Regulation 2012

<sup>2</sup> Clause 31(8)(a) of the Children and Young Persons (Care and Protection) Regulation 2012

<sup>3</sup> Clause 31(13) of the Children and Young Persons (Care and Protection) Regulation 2012

is reasonable for the steps to become a fully authorised carer under the Regulation to be held off until the agency's severe staff shortage is resolved.

The OCG will monitor provisional authorisations which continue longer than three months but will not direct an agency to cancel the provisional authorisations of these staff while the agency is continuing to experience a severe staff shortage due to COVID-19.

It is anticipated that the agency will no longer need to provisionally authorise staff as foster carers once the agency's severe staff shortage has been addressed, and that the authorisations of these individuals will then be cancelled on the Carers Register.

If a designated agency accredited for foster care intends to fully authorise a staff member as a foster carer in the longer term, the OCG expects that the designated agency will apply its usual processes for fully authorising the person as a carer under Clause 30 of the Regulation (and subject to the agency's policies for managing conflicts of interest for staff who are also authorised carers.)

Agencies that are accredited to provide residential care *only* may not fully authorise foster carers and must cancel the person's provisional authorisation as soon as the emergency foster care is no longer required.

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## For more information about OOHC & adoption accreditation and monitoring contact:

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