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| Worker and Carer Exclusion Scheme |
| Information for out-of-home care workers and carers |
| OFFICIAL |

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# About the Worker and Carer Exclusion Scheme

The Worker and Carer Exclusion Scheme started on 1 July 2024. It replaces the Victorian Carer Register and the Suitability Panel.

The scheme aims to keep children and young people in out-of-home care safe by preventing certain workers and carers from working in the sector if their behaviour demonstrates an unjustifiable risk of harm to children or young people.

Out-of-home care providers covered by the scheme that want to engage a new worker or carer will need to confirm with the Social Services Regulator that a worker or carer is not listed on the scheme’s exclusion database before engaging them.

Panels under the new scheme will have a similar role and composition as the Suitability Panel, deciding whether a person is excluded on an ongoing basis from working in the out-of-home care sector.

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| **Key elements of the Worker and Carer Exclusion Scheme*** The scheme is administered by the new independent Social Services Regulator.
* The scheme applies to certain workers and carers in the out-of-home care sector including:
	+ foster carers
	+ workers and carers providing care and services to children in residential out-of-home care services
	+ workers and carers providing care and services to children in secure welfare services.
* Workers and carers covered by the scheme whose conduct demonstrates an unjustifiable risk of harm to children can be excluded from working in the out-of-home care sector.
* A person can be excluded on an interim basis while an investigation into the person’s conduct is ongoing, or while a panel is considering the person’s conduct.
* Out-of-home care service providers covered by the scheme must check with the Social Services Regulator to find out whether a person is excluded before employing or engaging them as a carer.
* Panels will make decisions about whether a person is excluded from working in the out-of-home care sector.
* It is an offence for an out-of-home care service provider covered by the scheme to engage a person who is excluded or to engage a worker without first checking whether the worker is excluded.
* Workers or carers who are being investigated or are excluded, including on an interim basis, must notify any current or potential employer of this. It is an offence not to do so.
 |

# Workers and carers covered by the scheme

The scope of the Worker and Carer Exclusion Scheme mirrors the scope of the Victorian Carer Register framework.

Workers and carers covered by the scheme include:

* foster carers
* workers or carers providing care or services to children in residential out-of-home care services
* workers or carers providing care or services to children in secure welfare services.

This includes workers or carers engaged in the above roles under a labour hire arrangement.

Out-of-home care service providers that engage the above workers or carers are also in scope of the scheme.

The Worker and Carer Exclusion Scheme does not apply to:

* kinship carers
* permanent carers
* adoptive carers
* people engaged by providers on a voluntary basis other than foster carers – for example, some lead tenants.

# Change from the Victorian Carer Register to a WCES database

From 1 July 2024, out-of-home care workers and carers will no longer be registered by service providers on the Victorian Carer Register. The Victorian Carer Register will no longer exist.

Instead, the Social Services Regulator will maintain a ‘WCES database’. The WCES database will include details of:

* carers who were disqualified from the Victorian Carer Register before the Worker and Carer Exclusion Scheme started (these carers are deemed to be excluded under the scheme)
* workers and carers excluded, including on an interim basis, under the Worker and Carer Exclusion Scheme, including details of the exclusion decision
* workers and carers under investigation.

Under the new scheme, before engaging a worker or carer, out-of-home care service providers covered by the scheme must ask the Social Services Regulator to check the WCES database. The Regulator will disclose whether the person is under investigation or excluded. This is like the current ‘disqualified carer check’.

# Requirements for out-of-home care workers and carers under the scheme

Certain workers and carers in the out-of-home care sector are subject to obligations under the Worker and Carer Exclusion Scheme.

Requirements for workers and carers apply where a worker or carer’s conduct is or has been investigated by the Social Services Regulator or considered by a Worker and Carer Exclusion panel. Some requirements are new.

| No. | Key requirements for workers and carers |
| --- | --- |
| 1 | Workers and carers must tell all out-of-home care services that they work for if they are:* under investigation
* have been excluded – including on an interim basis.
 |
| 2 | The Social Services Regulator or the Worker and Carer Exclusion panel will notify a worker or carer in writing if:* the Regulator decides to investigate a worker or carer’s conduct under the scheme
* the worker or carer has been excluded, including on an interim basis.

It is an offence not to inform their employer of this information. |
| 3 | A worker or carer must tell their employer(s) they are under investigation or have been excluded:* as soon as reasonably practicable
* within 2 days of receiving the notice from the Social Services Regulator or panel.
 |
| 4 | Where a worker or carer is under investigation or their conduct has been referred to a panel, the worker or carer must tell the Regulator the name of any out-of-home care service provider that they work for or have applied to work for. The worker or carer must tell the Social Services Regulator the details of these service providers as soon as reasonably practicable. It is an offence not to do so. |
| 5 | Workers and carers who have been excluded, including on an interim basis, must also tell the Regulator if they change their name or address. |

Obligations for workers and carers, and how the obligations change from the Victorian Carer Register framework, are set out in Table 1.

Table 1: Obligations for workers and carers under the Worker and Carer Exclusion Scheme

| Obligations for out-of-home care workers and carers under the Worker and Carer Exclusion Scheme | Change from the Victorian Carer Register framework |
| --- | --- |
| A person must not apply for employment or engagement as an out-of-home care worker or carer if excluded. It is an offence to do so. | No change |
| A person must not apply for employment or engagement as an out-of-home care worker or carer while being investigated under the scheme, or while a panel is considering the matter, without telling the service that fact. It is an offence to do so. | No change |
| It is an offence to work in the out-of-home care sector while excluded. | New offence |
| A worker or carer must tell out-of-home care services they work for if they:* are under investigation under the scheme
* have been excluded.

It is an offence not to do so. | New requirements and offences |
| A worker or carer must provide the following information to the Social Services Regulator:* details of out-of-home care services where they work – it is an offence not to do so
* changes in their personal details including name and address.
 | New requirements and offence |

# Exclusion from working in the out-of-home care sector, including interim exclusions

## Exclusions

A worker or carer can be excluded on an on going basis from working in the out-of-home care sector covered by the scheme if they:

* have engaged in conduct that can lead to exclusion; and
* are found by a Worker and Carer Exclusion panel to pose an unjustifiable risk of harm to children.

## Interim exclusions

The Social Services Regulator and the Worker and Carer Exclusion panel will be able to issue interim exclusions to workers and carers while an investigation or panel process is underway.

While a worker or carer is excluded on an interim basis, they cannot work in the out-of-home care sector covered by the scheme. This ensures risks of harm to children can be managed while the Regulator and panel consider the person’s conduct.

A comparison of disqualifications and exclusions is set out in Table 2.

Table 2: Comparison of disqualifications and exclusions under the old and new schemes

| Disqualifications under the Victorian Carer Register framework | From 1 July 2024 – exclusions under the Worker and Carer Exclusion Scheme | Change |
| --- | --- | --- |
| Carers can be disqualified from working in the out-of-home care sector. Disqualifications are ongoing. | Workers or carers can be excluded from working in the out-of-home care sector, (including on an interim basiswhile an investigation or panel process is ongoing).  | The ability to exclude a person on an interim basis while an investigation or panel process is ongoing is new.   |

## What it means to be excluded, including on an interim basis

Workers and carers who have been excluded on an ongoing or interim basis, must not:

* work in the out-of-home care sector covered by the scheme
* apply for work as an out-of-home care worker or carer covered by the scheme.

It is an offence to work in the out-of-home care sector while excluded, including on an interim basis.

## Carers disqualified from the Victorian Carer Register

Carers disqualified from the Victorian Carer Register as at 30 June 2024 will be excluded from working in the out-of-home care sector under the scheme. Their details will be added to the Social Services Regulator’s WCES database.

## Carers under independent investigation on 1 July 2024

Carers under investigation at the time of transition to the new scheme on 1 July 2024 will have their matter investigated and considered under the *Children, Youth and Families Act 2005*. Their details will be added to the Social Services Regulator’s WCES database.

# Conduct that can lead to exclusion

The scheme broadens the range of conduct that may lead to a person’s exclusion from working in the out-of-home care sector covered by the scheme.

Under the Victorian Carer Register framework, a person could be disqualified if they physically or sexually abused a child in their care. Under the new scheme, a person can be excluded from working in the sector if they have engaged in the following:

* conduct that causes or is reasonably likely to cause serious harm to a child (serious harm includes death; loss of a foetus; permanent or long-term serious impairment, serious disfigurement or severe psychological injury or developmental delay)
* repeated or persistent conduct that results in harm, including harm of a physical, sexual, emotional, psychological, financial or cultural nature
* prescribed conduct – the elements of reportable conduct under the Reportable Conduct Scheme have been prescribed including:
* sexual offences, sexual misconduct or physical violence committed against, with or in the presence of a child
* any behaviour that causes significant emotional or psychological harm to a child
* significant neglect of a child.

The main difference is that the new scheme uses a broader concept of ‘conduct that causes harm’ compared with the Victorian Carer Register framework.

Table 3 compares the conduct that can lead to disqualification against the conduct that can lead to exclusion under the scheme.

Table 3: Comparison of conduct that can lead to exclusion under the old and new schemes

| Conduct that can lead to disqualification under the Victorian Carer Register framework | From 1 July 2024 – conduct that can lead to exclusion under the Worker and Carer Exclusion Scheme | Change |
| --- | --- | --- |
| Physical or sexual abuse of children in care | * Behaviour that causes, or is likely to cause, serious harm to a child or young person
* Repeated or persistent conduct that results in harm to a child or young person
* Reportable conduct:
	+ sexual offences, sexual misconduct or physical violence involving a child or young person
	+ behaviour that causes significant emotional or psychological harm to a child
	+ significant neglect of a child or young person
 | A wider range of conduct can lead to exclusion under the new scheme.The main change is that the scheme includes a broader concept of conduct that causes harm. Harm is not tied to physical or sexual conduct.  |

# Panels under the Worker and Carer Exclusion Scheme

The Social Services Regulator will appoint the panels. The panels will be made up of at least 3 people including a chairperson. The chair must have legal qualifications and experience. Other panel members must have qualifications and experience in either:

* law
* social work
* psychology
* behaviour of criminal offenders, or
* other relevant disciplines.

Panels will conduct hearings to make decisions about whether a worker or carer is to be excluded from working in the out-of-home care sector.

# Review of exclusion decisions

Interim Exclusions

Where a person is excluded on an interim basis, the Regulator or the Worker and Carer Exclusion Panel that made the exclusion must review it on a regular basis. The Regulator or the panel will provide a notice to the worker or carer setting out the details of the interim exclusion. The notice will also set out a date that the interim exclusion will be reviewed, and that the interim exclusion will be reviewed at least once every 30 days after the initial review.

Ongoing exclusions

A person can apply to the panel to remove their exclusion. The panel can decide to remove a person’s exclusion in the following circumstances:

* The person’s circumstances have changed and:
	+ at least 12 months has passed since the applicant was placed on the exclusion database
	+ the person no longer poses an unjustifiable risk of harm to children
* The exclusion was based on disciplinary or regulatory findings made by a body other than a WCES panel, or a finding of guilt for an offence, that was quashed or set aside after the exclusion was made.

If the panel decides to remove a person’s exclusion, the worker or carer is no longer excluded from providing out-of-home care services.

A worker or carer may also apply to the Victorian Civil and Administrative Tribunal to review an exclusion or interim exclusion decision.

# Offences and penalties for workers and carers under the scheme

There are offences and penalties under the scheme for workers and carers not complying with certain obligations. These are set out in Table 4.

Table 4: Offences and penalties under the Worker and Carer Exclusion Scheme

| Offence[[1]](#footnote-2)  | Maximum penalty[[2]](#footnote-3) |
| --- | --- |
| Apply for work as an out-of-home care worker or carer if under investigation or referred to a panel without disclosing that fact to the service provider | 60 penalty units (~ $11,855)  |
| Apply for work as an out-of-home care worker or carer if excluded | 240 penalty units (~ $47,421), imprisonment for 2 years, or both |
| Work as an out-of-home care worker or carer if excluded | 240 penalty units (~ $47,421), imprisonment for 2 years, or both |
| Fail to notify an employer if under investigation, been referred to a panel or have been excluded | 60 penalty units (~ $11,855) |
| Fail to disclose details to the Social Services Regulator – name and address and details of out-of-home care services where the person works  | 60 penalty units (~ $11,855) |

# More information

More information about the Social Services Regulator and the Worker and Carer Exclusion Scheme is on the [Social Services Regulator’s webpage](https://www.vic.gov.au/social-services-regulator) https://www.vic.gov.au/social-services-regulator. This includes more detailed information about penalties and offences under the Worker and Carer Exclusion Scheme.

You can also email enquiries@ssr.vic.gov.au.

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1. Note that offences relate to work as an out-of-home care worker or carer that is covered by the scheme, for example, foster carer, worker or carer in residential care or secure welfare. [↑](#footnote-ref-2)
2. The approximate penalty value in the table has been calculated on the 2024–25 value of a penalty unit, which is $197.59. [↑](#footnote-ref-3)