Foster Care Agency and Children’s Residential Facility Licensing Guidelines

Classification C

Summary

Department for Child Protection (DCP) has the legislated mandate under the Children and Young People (Safety) Act 2017 ("the Act") to grant (either with or without conditions), renew and cancel licences for Foster Care Agencies (FCA) and Children’s Residential Facilities (CRF). The paramount consideration in applying the Act is to ensure that children and young people are protected from harm. Children who are removed from the care of a person under the Act are also required to be placed in a safe, nurturing, stable and secure environment.

For the purpose of determining whether a licence will be granted, renewed or cancelled DCP has established criteria against which a FCA and CRF will be assessed. DCP also has a compliance and monitoring role to ensure it is appropriate for agencies to remain licensed and that any licence conditions are being complied with. The current licensing criteria is designed to:

- Ensure agencies meet their legislative responsibilities under the Children and Young People (Safety) Act 2017
- Ensure agencies meet their legislative responsibilities under the Child Safety (Prohibited Persons) Act 2016
- Reflect agencies’ obligations under the Family and Community Services Act 1972, Children’s Protection Act 1993 and Work Health and Safety Act (SA) 2012
- Ensure compliance with the South Australian Standards of Alternative Care 2008 and other relevant frameworks, policies and legislation
- Reflect the principles of the Charter of Rights for Children and Young People.

The current licensing criterion also incorporates the themes present in the National Out of Home Care Standards 2009-2020.

National Out of Home Care Standards 2009-2020 and the South Australian Standards of Alternative Care 2008 are as follows:

National Out of Home Care Standards 2009-2020

- **Standard 1 – Stability and Security**
  Children and young people will be provided with stability and security during their time in care.

- **Standard 2 – Participate in decisions**
  Children and young people participate in decisions that have an impact on their lives.

- **Standard 3 – Aboriginal and Torres Strait Islander communities**
  Aboriginal and Torres Strait Islander communities participate in decisions concerning the care and placement of their children and young people.

- **Standard 4 – Individualised plan**
  Each child and young person has an individualised plan that details their health, education and other needs.
• **Standard 5 – Health needs**
  Children and young people have their physical, developmental, psychosocial and mental health needs assessed and attended to in a timely way.

• **Standard 6 – Education and early childhood**
  Children and young people in care access and participate in education and early childhood services to maximise their educational outcomes.

• **Standard 7 – Education, training and/or employment**
  Children and young people up to at least 18 years are supported to be engaged in appropriate education, training and/or employment.

• **Standard 8 – Social and/or recreational**
  Children and young people in care are supported to participate in social and/or recreational activities of their choice, such as sporting, cultural or community activity.

• **Standard 9 – Connection with family**
  Children and young people are supported to safely and appropriately maintain connection with family, be their birth parents, siblings or other family members.

• **Standard 10 – Identity development**
  Children and young people in care are supported to develop their identity, safely and appropriately, through contact with their families, friends, culture, spiritual sources and communities and have their life history recorded as they grow up.

• **Standard 11 – Significant others**
  Children and young people in care are supported to safely and appropriately identify and stay in touch, with at least one other person who cares about their future, who they can turn to for support and advice.

• **Standard 12 – Carers**
  Carers are assessed and receive relevant ongoing training, development and support, in order to provide quality care.

• **Standard 13 – Transition from care planning**
  Children and young people have a transition from care plan commencing at 15 years old which details support to be provided after leaving care.

*South Australian Standards of Alternative Care 2008*

• **Standard 1 Entering care**
  All contracted service providers within the alternative care sector will provide individualised placement planning and matching for all children and young people entering care to ensure placement suitability, stability and continuity.

• **Standard 2 Case management**
  DCP caseworkers will ensure their work with children, young people and their families and carers is based upon an ongoing assessment and planning framework. Monitoring and review of casework will ensure children and young people are provided with all identified opportunities/services to allow them to realise their full potential.
• **Standard 3 Care provision**
  
  Family-based care: foster care, relative and kinship care, non-family based care: residential care, transitional accommodation, commercial care workers, congregate care and independent living. All contracted service providers within the alternative care sector will provide children and young people with a safe and secure living environment appropriate to their specific needs. Service providers will be subject to regular monitoring and review to promote quality care provision for children and young people in care.

• **Standard 4 Participation**

  Children, young people, birth families and carers will be supported to actively participate in decision-making and to make choices in case planning.

• **Standard 5 Care records**

  The alternative care sector will have well-managed records that are accessible and confidential.

• **Standard 6 Customer relations**

  All inquiries, complaints and allegations will be heard and responded to in a confidential, responsive and fair manner.

• **Standard 7 Transition planning**

  Transition planning will occur for children and young people from the onset of entry into care through to leaving care.

• **Standard 8 Sector partnerships**

  All service providers within the alternative care sector, both government and non-government, will work in partnership to deliver accessible and effective services for children, young people and their families.

Further work is currently being undertaken as part of the development of the new Licensing and Compliance framework to ensure the criteria outlined in this document is in line with current standards and outcomes from both State and Federal Royal Commissions. These guidelines will be updated to reflect this upon completion.

1. **Purpose**

   1.1.1 This guideline provides information to Department for Child Protection (DCP) staff and external agencies about the legislative requirements and departmental processes relating to the licensing of foster care agencies and children’s residential care facilities.

2. **Scope**

   2.1.1 This guideline is effective from 22 October 2018 and outlines the legislative requirements and departmental processes for the following:

   - Initial application and approval of a foster care agency and children’s residential facility licence
   - Renewal of existing foster care agency and children’s residential facility licence
   - Compliance and monitoring requirements
3. Foster care agency licence

3.1 Legislative provision for a foster care agency licence

3.1.1 A foster care agency is defined under section 97 of the Act as follows: ‘For the purposes of this Part, a reference to the business of a foster care agency will be taken to be a reference to the placement of children and young people in the care of approved carers (whether on a commercial basis or otherwise)’.

3.1.2 Any agency that wishes to administer the placement of a child or young person in a foster care arrangement in South Australia must hold a Foster Care Agency (FCA) Licence. This licence must be approved by DCP in accordance with the requirements of Chapter 7, Part 6 of the Act.

3.1.3 Section 98 of the Act refers to the penalties for operating a FCA without a licence and states: ‘A person must not carry on the business of a foster care agency unless the person is the holder of a licence under this Part.

Maximum penalty:

(a) in the case of a natural person—Imprisonment for 2 years; or

(b) in the case of a body corporate—$120,000’

3.1.4 Section 99 of the Act describes the granting of a licence and sets out the factors that the Chief Executive, DCP must be satisfied of prior to granting a licence.

3.1.5 Section 99(3) states:

‘(3) The Chief Executive must not grant a licence to a person unless satisfied that—

(a) the person is a fit and proper person to hold a licence (including by having regard to the qualifications and experience in the field of foster care, or any other related field, of the persons who will be carrying on or managing the business, and of any employees of the business); and

(b) the person (or, in the case of a body corporate, each director of the body corporate) is not a prohibited person under the Child Safety (Prohibited Persons) Act 2016; and

(c) a working with children check has been conducted in relation to the person (or, in the case of a body corporate, in relation to each director of the body corporate) within the preceding 5 years; and

(d) the system of management within the agency is appropriate; and

(e) the procedures proposed by the agency for the selection, approval, training and support of approved carers are appropriate; and

(f) the procedures proposed by the agency for the placement and supervision of children and young people are appropriate,

and may refuse to grant a licence for any reason the Chief Executive thinks fit.’

3.1.6 Section 99 (7) of the Act provides that a licence remains in force for a period of 12 months from the day on which it was issued and may be renewed in accordance with the regulations for successive periods of 12 months.

3.1.7 Section 100 (1) of the Act determines the basis on which a licence may be cancelled by the Chief Executive, DCP.
### 3.2 Process to apply for an initial foster care agency licence

#### 3.2.1 Initial application

The foster care agency should contact the DCP licensing officer in the Service Contracts and Licensing Unit on 8226 7005 or 8463 6102, email: DCP Licensing@sa.gov.au.

#### 3.2.2 The DCP licensing officer will discuss details with the Agency and help determine if the Act requires them to apply for a FCA licence. If so, an application pack for an initial licence will be sent for completion. The application pack includes the following:

- application form for an initial foster care agency licence
- checklist of documentation required from the agency, including relevant policies and procedures; and
- relevant regulations and legislative provisions.

#### 3.2.3 DCP licensing officers can provide advice to the agency about completing the forms and meeting legislative requirements.

#### 3.2.4 Criteria

#### 3.2.5 The licensing criteria are currently based on legislative requirements and are consistent with the [National Out of Home Care Standards 2009-2020](#), [South Australian Standards of Alternative Care 2008](#) and the [Work Health and Safety Act (SA) 2012](#). Further work is being undertaken to ensure the criteria outlined below is in line with current standards and outcomes from the Federal and State Royal Commission. These guidelines will be updated to reflect this upon completion. NOTE: Staff should not rely on a print copy of this guideline. Always refer to the intranet for the most up-to-date version.

#### 3.2.6 Evidence of meeting the following criteria must be provided to DCP for an FCA licence application to progress:

- Agency constitution
- Statement of philosophy
- Agency insurance policy certificate(s)
- Staff recruitment policy and procedures
- DHS ‘working with children check’ (“WWCC”) policy, procedure and records (see 3.4.5 for further information) including:
  - Compliance register – FCA program staff WWCC dates, screening status and relevant information.
  - Compliance register - foster carer, adult residents aged 18 years (+) and regular visitors working with children check dates, screening status and relevant information.
- Staff training and development policy
- Staff support and supervision policy
- Foster carer recruitment policy and procedures
- Foster carer training and development policy
- Foster carer support, supervision and review policy
- Child placement policy, including:
Referral criteria and process

Age range of children and

Purpose of care and length of stay

- Supervision of children and behaviour management procedures
- Complaints procedure for children / clients
- Child protection policy
- Mandated notification policy and procedures
- Care concerns policy and procedures
- Confidentiality and privacy policy
- Records management policy and procedures
- Volunteer selection, training and support policy procedures (if applicable) and
- WHS policy and procedures

3.2.7 **NOTE:** Evidence can be provided electronically via email or on a USB. The signed original application form in hard copy must be posted to the Service Contracts and Licensing Unit. It is important that evidence is organised clearly. The evidence should be referenced in the checklist of documentation against the assessment criteria for each standard. The reference should include the specific policy and/or procedure name as well as the published date of the documents and specific pages on which the required information can be found.

3.2.8 When the completed application and supporting evidence has been received, a DCP licensing officer will assess the evidence against the checklist of documentation and will request additional information from the agency if required.

3.2.9 **Please note:** If the applying agency commences an application and no longer requires a licence due to a change of circumstances, they must notify the Service Contracts and Licensing Unit via email or phone immediately.

3.2.10 **Approval process**

3.2.11 If evidence has been provided to satisfy all legislative and other Departmental requirements, the DCP licensing officer will make a recommendation to the Chief Executive or Authorised Delegate for approval of an FCA Licence.

3.2.12 Approval for the FCA licence will be for 12 months only. The agency will receive a confirmation letter, a certified licence and a copy of the agency’s checklist of documentation.

3.2.13 **Conditional licence**

3.2.14 Section 99(4) of the Act allows for the Chief Executive to impose conditions on FCA licences. Non-compliance with those conditions can result in significant penalties. The agency will be notified in writing of the specific conditions on the licence and these may be revoked or varied by the Chief Executive.

3.2.15 If the licence is not approved, the applying foster care agency will receive feedback in writing and advice about the process for reapplication.

### 3.3 Foster care agency licence renewal process
3.3.1 Renewal Process

3.3.2 The following process must be undertaken to ensure renewal of a FCA licence:

- **6 months prior to the licence expiry date**
  The FCA must contact the DCP licensing officer to commence the licence renewal process. DCP will provide the following:
  - Application for the renewal of a foster care agency licence,
  - Agency self-assessment report, and
  - Checklist of documentation.

- **4 months prior to the licence expiry date**
  FCA submits the completed application for the renewal of a foster care agency licence, agency self-assessment report and any updated or new policies and procedures since the issue of the current licence.

- **3 months prior to the licence expiry date**
  The DCP licensing officer will assess the application and may request additional information. A recommendation is then made to the Manager, Service Contracts and Licensing for approval.

- **Prior to licence expiry date**
  Subject to an appropriate application the DCP licensing officer will advise the FCA of the outcome.

3.3.3 **NOTE**: If documentation or information is not provided to DCP in accordance with the timeframes set out in these guidelines, DCP will not be responsible for any delay in the licensing process. FCAs should be aware of the penalties described in s98 of the Act (see appendix to this guide) for operating without a licence.

3.4 Foster agency licence monitoring, compliance and cancellation

3.4.1 DCP will conduct compliance audits during the licence period. If an FCA is found to be non-compliant with licensing requirements or conditions, the Chief Executive (or Authorised Delegate) may impose additional conditions. If the compliance standard is compromised to a level where the FCA cannot continue to operate, the Chief Executive (or Authorised Delegate) may seek to cancel the licence as described under section 100 of the Act (see appendix to this guide). There are significant penalties for failure to comply with licence conditions and DCP will take action to enforce sanctions in appropriate cases.

3.4.2 A licence (whether it is conditional or unconditional) may be cancelled if the Chief Executive reasonably suspects that a child or young person is not being adequately cared for, if the FCA is not complying with the provisions of the Act, if the FCA no longer complies with the essential grounds on which the license was granted (as listed in section 99(3) of the Act, also see Item 3.1.5 of these Guidelines), if the holder of the FCA licence has not had a WWCC in the preceding 5 years or if the Chief Executive considers it is otherwise appropriate. The licence holder must be given written notice at least 28 days prior to the cancellation.

The Chief Executive may also cancel a licence if the FCA has refused to or failed to comply with a condition of the licence or if the licence holder is a prohibited person under the *Child Safety*...
The process of compliance audits is currently being developed as part of the new Licencing and Compliance framework. When the framework is completed and endorsed, this guideline will be updated and further information will be provided to FCAs.

**3.4.4 Department for Human Services – Working With Children Check**

All FCAs should make contact with carers 7 months in advance of the current WWCC expiry date to prepare them for the renewal process.

All FCAs must submit applications to the Department for Human Services for the renewal of a WWCC 6 months in advance of the current WWCC expiry date. This will ensure sufficient time for processing the application thus reducing the risk of carers being unable to provide care should a suitable placement option arise. (See Item 7 of this document ‘Definitions and abbreviations’ for more information on WWCC’s).

For information on how to apply for a WWCC see advice published by the Department for Human Services ([https://screening.sa.gov.au/screening-process](https://screening.sa.gov.au/screening-process)).

**4. Children’s residential facility licence**

**4.1 Legislative provisions for a children’s residential facility licence**

**4.1.1** Any agency that wishes to operate a children’s residential care facility in South Australia must hold a Children’s Residential Facility ("CRF") Licence. A children’s residential facility is defined in s103 of the Act as follows:

‘A Children’s Residential Facility means -

(a) a place where 3 or more children or young people are, for monetary or other consideration, cared for on a residential basis apart from their parents or guardians; or

(b) any other place in which children or young people are cared for on a residential basis declared by the regulations to be included in the ambit of this definition

but does not include-

(c) the residence of an approved carer in whose care a child or young person is placed under this Act; or

(d) a residential facility or other centre established by the Minister under the Family and Community Services Act 1972; or

(da) a training centre established under the Youth Justice Administration Act 2016; or

(e) residential premises that are attached to a school or a tertiary education institution, or that are used solely for the purposes of caring for tertiary students; or

(f) any other facility or place, or class of facility or place, declared by the regulations not to be included in the ambit of this definition.’

**4.1.2** The licence must be approved by DCP under section 105 of the Act.

**4.1.3** Section 29(1) of the *Children and Young People (Safety) Regulations 2017* give the Chief Executive authority to determine other situations where a facility may be defined as a ‘Children’s Residential Facility’. A [gazettal notice](https://screening.sa.gov.au/screening-process) published in October 2018 confirms that the licensing requirements of...
CRF’s also include those that provide care to less than three children or young people under custody or guardianship of the Chief Executive. **This means that facilities with a capacity of less than three will also be required to meet the licensing standard.** This is subject to those exclusions as stated in section 103 (and also set out in Item 4.1.1). The [gazettal notice](#) reads as follows:

**CHILDREN AND YOUNG PEOPLE (SAFETY) ACT 2017**  
**SECTION 103(b)**  
**CHILDREN AND YOUNG PEOPLE (SAFETY) REGULATIONS 2017**  
**REGULATION 29(1)**  
*Children’s residential facilities*

I, Catherine Taylor, Chief Executive of the Department for Child Protection South Australia, hereby determine that each place where children or young people in the custody, or under the guardianship of the Chief Executive are placed pursuant to section 84 of the *Children and Young People (Safety) Act 2017* on a residential basis, are to be included in the definition of *children’s residential facility* for the purpose of the *Children and Young People (Safety) Act 2017*, with the exception of those places referred to in Sections 103(c)(d)(da)(e) and (f) of the *Children and Young People (Safety) Act 2017*.

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4.1.4 Section 104 of the Act refers to the penalties for operating without a licence and states:

'A person must not operate a children's residential facility unless the person is the holder of a licence under this Part in respect of the facility.

Maximum penalty:

(a) in the case of a natural person—Imprisonment for 2 years; or
(b) in the case of a body corporate—$120 000.'

4.1.5 Section 105 of the Act describes the granting of a licence and sets out the factors that the Chief Executive, DCP must be satisfied of prior to granting a licence.

4.1.6 Section 105 (3) states:

The Chief Executive must not grant a licence to a person unless satisfied that -
(a) the person is a fit and proper person to hold a licence (including by having regard to the suitability, qualifications and experience of the persons who will be operating the children's residential facility and of any persons who will be employed in the facility; and

(b) the person (or, in the case of a body corporate, each director of the body corporate) is not a prohibited person under the Child Safety (Prohibited Persons) Act 2016; and*

(c) a working with children check has been conducted in relation to the person (or, in the case of a body corporate, in relation to each director of the body corporate) within the preceding 5 years; and*

(d) the premises proposed to be used as a children's residential facility are suitable for that purpose; and

(e) the system of management within the children's residential facility is appropriate.’

4.1.7 Pursuant to s105(4) the Chief Executive is also required to impose a condition on all CRF licenses setting out the maximum number of children and young people that may reside in the CRF at any time.

4.1.8 Section 105(7) of the Act provides that a licence remains in force for the period specified in the licence and cannot exceed 3 years.

4.1.9 Section 106(1) of the Act determines the basis on which a licence may be cancelled by the Chief Executive, DCP.

4.1.10 If it is determined that a licence will be cancelled the operator of the facility will be notified in accordance with s106(2) of the Act.

4.2 Process to apply for an initial children’s residential facility licence

4.2.1 Initial application

The CRF operator must contact the DCP licensing officer in the Service Contracts and Licensing Unit on 8226 7005 or 8463 6102 or email DCPLicensing@sa.gov.au.

4.2.2 The DCP licensing officer will discuss details with the Agency and help determine if the Act requires them to apply for a CRF licence. If so, an application pack for an initial licence will be sent for completion. The application pack includes the following:

- Application for an initial children's residential facility licence
- Checklist of documentation required by the agency, including relevant policies, procedures and procedures; and
- Relevant regulations and legislative provisions.

4.2.3 DCP licensing officers can provide advice about completing the forms and meeting legislative requirements.

4.2.4 Criteria

4.2.5 The licensing criteria are currently based on legislative requirements and are consistent with the National Out of Home Care Standards 2009-2020, South Australian Standards of Alternative Care 2008, and the Work Health and Safety Act (SA) 2012. Further work is being undertaken to ensure the criteria outlined below is in line with current standards and outcomes from the Federal and State Royal Commission. These guidelines will be updated to reflect this upon completion. NOTE: Staff should not rely on a print copy of this guideline. Always refer to the DCP internet page for the most up-to-date version.
4.2.6 The Agency must submit a completed application for an initial children’s residential facility licence and checklist of documentation for an initial/renewal children’s residential care facility licence with supporting evidence, including current agency documents, policies and procedures. This is assessed by the DCP licensing officer with feedback provided to the agency.

4.2.7 Some of the physical requirements of the facility detailed below are derived from the fire safety requirements of the National Construction Code of Australia 2016 – Volume Two, Part 3.7.2 for class 1a and class 1b houses or dwellings used for business purposes. This describes requirements for appropriate smoke alarms and evacuation lighting and planning.

4.2.8 The work health & safety criteria detailed below are derived from the Work Health and Safety Act (SA) 2012. This Act describes the obligation on employers and on persons conducting a business or undertaking to manage health and safety risks arising from the workplace effectively, by either eliminating or minimising risks so far as is reasonably practicable.

4.2.9 For a children’s residential licence application to progress, evidence of the following must be provided in relation to the material set up of the facility:

- **Local government inspection** in relation to food safety (if applicable are conducted annually – contact your local council for more information)
- **Fire smoke alarm/s installed** (hard-wired interconnected)
- **Emergency lighting installed** (hard-wired interconnected to smoke alarms)
- **Electrical installer’s – Certificate of Compliance** (AS3000) for smoke alarms and emergency lighting
- **Fire equipment installed** (including fire extinguishers and fire blankets – safety checked at least 6 monthly)
- **Electrical tagging** (electrical appliances tested and tagged at least annually, unless new appliances)
- **Work, health, safety & hazard inspection** (conducted at least quarterly by the facility operator)
- **Triennial fire safety inspection** - DCP requires this Inspection to be undertaken by the SA Metropolitan Fire Service or the SA Country Fire Service (whichever is responsible for the region) within the first 12 months of occupancy and/or operation of a facility.

4.2.10 Evidence of meeting the following must be provided to DCP:

- Agency constitution
- Agency insurance policy certificate/s
- Statement of philosophy
- Staff recruitment policy and procedures
- DHS WWCC policy, procedure and records (see 3.4.5 for further information) including:
  - Compliance register – CRF staff WWCC dates, screening status and relevant information
  - Strategy and risk management/escalation process for non-compliance issues
- Psychological / psychometric assessment records and policy
  - Compliance register – CRF staff psychological / psychometric assessment suitability names, status, dates and other specified relevant information
Demonstrate and detail progressive strategy for staff testing during legislative transitional arrangements period

- Staff training and development policy
- Staff support and supervision policy
- Child placement policy, including
  - Referral, assessment/intake criteria and suitability
  - Age range of children
  - Purpose of care and length of stay
- Supervision of children and behaviour management procedures
- Complaints policy & procedure (including for children and young people)
- Child protection / child safe environments policy, including
  - Ongoing maintenance and review of child safe environment policies and procedures
- Mandated notification policy and procedures
- Care concerns policy and procedures
- Confidentiality and privacy policy
- Records management policy and procedures (including children and young people records; and employee records)
- Volunteer & student selection, training and support policy and procedures (if applicable)
- WHS policy and procedures
- Rights and responsibilities of children and young people policy

4.2.11 **NOTE:** Evidence can be submitted electronically via email or on a USB. The signed original application form must be provided in hard copy to the Service Contracts and Licensing Unit. It is important that evidence is organised clearly. The evidence should be referenced in the checklist of documentation against the assessment criteria for each standard. The reference should include the specific policy and/or procedure name as well as the published date of the documents and specific pages on which the required information can be found.

4.2.12 **Approval process**

4.2.13 The DCP licensing officer will assess the evidence provided and request additional information if required. When satisfied that the agency has demonstrated compliance with the necessary requirements, DCP will contact the agency to undertake a physical inspection of the facility.

4.2.14 A suitable agency representative must be present at the scheduled inspection of the facility by the DCP licensing officer. A children’s residential facility inspection report is completed by the DCP licensing officer in conjunction with the agency representative. The assessment of the facility takes approximately 1.5 to 2 hours depending on the size and standard of the facility. It is recommended that children and young people are not present at the time of an inspection to ensure privacy and respect for those children and young people. Additional requirements can be requested from the agency based on the inspection and evidence of meeting those requirements must be provided for the application to progress.
4.2.15 The DCP licensing officer provides information about the assessment to the Chief Executive (or Authorised Delegate) who determines whether a licence to operate a children’s residential care facility will be granted. The licence can be granted for a maximum of 3 years. Annual compliance checks will occur for a licence that is granted for more than 12 months.

4.2.16 If approved, the agency will receive a confirmation letter, a certified licence that specifies the licence period and a copy of the agency’s completed checklist of documentation.

4.2.17 **Conditional licence**

4.2.18 Section 105(4) requires the Chief Executive to impose a condition on all CRF licences setting out the maximum number of children and young people that may reside in the facility at any time. The agency will be notified of this in writing.

4.2.19 Section 105(4) also allows the Chief Executive to impose additional conditions on CRF licences. There are significant penalties for non-compliance. The agency will be notified in writing of the specific conditions on the licence.

4.2.20 If the licence is not approved the applying agency will be provided with an explanation in writing and advised of the procedure for reapplication.

4.2.21 Note: If the applying agency has a change of circumstance (i.e. accommodation/facility change, care arrangement, or funding change) or no longer meet the criteria for a licence, this is to be communicated to the DCP Service Contracts and Licensing Unit via email or phone immediately.

### 4.3 Children’s residential facility licence renewal process

4.3.1 **Children’s residential facility licence renewal process**

4.3.2 The following process must be undertaken to ensure renewal of a Children’s Residential Care Facility Licence:

- **6 months prior to the licence expiry date**
  
  The CRF must contact the DCP licensing officer to commence the licence renewal process. DCP will provide the following:

  - Current licence expiry date
  - Application for the renewal of a children’s residential facility licence
  - Checklist of documentation.

- **5 months prior to the licence expiry date**
  
  The CRF must submit a completed application for renewal of a children’s residential facility licence and provide updated or new documents, policies and procedures and supporting evidence to the checklist of documentation.

- **4 months prior to the licence expiry date**
  
  DCP will undertake an onsite inspection of the facility and complete an inspection report. An agency representative must be present for the inspection.

- **2 months prior to the licence expiry date**
  
  CRF must submit all requested documentation. DCP will determine if the licence will be renewed, and if so, the conditions on the licence. DCP will provide advice in writing if appropriate.
4.3.3 NOTE: If documentation or information is not provided to the Department in accordance with the timeframes set out in these guidelines DCP will not be responsible for any delay in the licensing process. CRF operators should be aware of the penalties described in Section 104 of the Children and Young People (Safety) Act 2017 (see appendix to this guide) for operating without a licence.

4.4 Children’s residential care facility monitoring, compliance, and cancellation

4.4.1 The legislation makes provision for a licence to be granted for up to 3 years. Where a licence is granted for more than 12 months DCP will undertake 12-month compliance checks (at a minimum) to ensure the licensing standard is maintained to an appropriate level. The 12-month period will commence from the date of issue of the initial licence and will reflect the same process and standards as the licence renewal process.

4.4.2 DCP will conduct compliance audits during the licence period. If a CRF is found to be non-compliant with the licensing requirements or conditions, the Chief Executive (or Authorised Delegate) may impose additional conditions. If the compliance standard is compromised to a level where the CRF cannot continue to operate, the Chief Executive (or Authorised Delegate) may seek to cancel the licence in accordance with s106 of the Act (see Item 4.4.3 below). There are significant sanctions for failure to comply with licence conditions and DCP will take action to enforce sanctions in appropriate cases.

4.4.3 A licence (whether it is conditional or unconditional) may be cancelled if the Chief Executive reasonably suspects that a child or young person is not being adequately cared for, if the CRF is not complying with the provisions of the Act, or if the licence holder (or if a body corporate, then the director) has not had a WWCC in the preceding 5 years or if the Chief Executive considers it is otherwise appropriate. The licence holder must be given written notice at least 28 days prior to the cancellation.

The Chief Executive may also cancel a licence if the holder of the licence has refused or failed to comply with a condition of the licence, or if the holder of the licence is a prohibited person under the Child Safety (Prohibited Persons) Act 2016. In this instance a written notice is not required within any given timeframe.

5. Roles and responsibilities

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</table>
6. Compliance, monitoring and evaluation

Service Contracts & Licensing unit will review these Guidelines as needed.

7. Definitions and abbreviations

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
</tr>
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<tbody>
<tr>
<td>The Act</td>
<td><em>Children and Young People (Safety) Act 2017</em> is the governing legislation that provides direction for the Government’s commitment to the care and protection of children and young people in statutory out-of-home care and provides the legislative authority for licensing.</td>
</tr>
<tr>
<td>Children’s Residential Facility (CRF)</td>
<td>Part 7, Section 103 defines a ‘children's residential facility’ as a place where 3 or more children or young people are, for monetary or other consideration, cared for on a residential basis apart from their parents or guardians; or any other place in which children or young people are cared for on a residential basis declared by the regulations to be included in the ambit of this definition. Section 105 ‘Licence to operate children’s residential facility’ prescribes the basis for less than 3 children or young people and the Approved Carer standard. The <em>Gazettal Notice of the Chief Executive published October 2018</em> (Children’s residential facilities) states: each place where children or young people in the custody, or under the guardianship of the Chief Executive are placed pursuant to section 84 of the Act <em>Children and young People (Safety) Act 2017</em> on a residential basis, are to be included in the definition of children’s residential facility for the purpose of the <em>Children and Young People (Safety) Act 2017</em>, with exception of those places referred to in Sections 103 (c) (d) (da) (e) and (f) of the <em>Children’s and Young People (Safety) Act 2017</em>.</td>
</tr>
<tr>
<td>Term</td>
<td>Meaning</td>
</tr>
<tr>
<td>-------------------------------</td>
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</tr>
<tr>
<td>Foster Care Agency (FCA)</td>
<td>Part 6, section 97 of <em>Children and Young People (Safety) Act 2017</em> states: ‘For the purposes of this Part, a reference to the business of a foster care agency will be taken to be a reference to the placement of children and young people in the care of approved carers (whether on a commercial basis or otherwise).’</td>
</tr>
<tr>
<td>WWCC</td>
<td>‘Working With Children Check’ is defined in s5 of the <em>Child Safety (Prohibited Persons) Act 2016</em> as a ‘...check conducted by the central assessment unit in accordance with this Act’, and its operation is provided for in Part 5 (ss 20-42) of that Act. The WWCC is to replace the Child-Related Employment Screening (CRES) on 1 July 2019. The WWCC may only be undertaken by the South Australian DHS Screening Unit, will be valid for a 5 year period and will be continuously updated and monitored DHS.</td>
</tr>
<tr>
<td>DCP licensing officer</td>
<td>The DCP licensing officer coordinates the arrangements for licensing applications and is located within the Service Contracts and Licensing Unit, Finance and Corporate Services Directorate, Department for Child Protection.</td>
</tr>
<tr>
<td>Checklist of documentation</td>
<td>The checklist of documentation outlines the evidence that agencies are required to submit as part of the licensing process.</td>
</tr>
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8. Related documents

**Related forms and templates**

**Foster care application documents**

- Application for an initial foster care agency licence
- Application for the renewal of a foster care agency licence
- Checklist of documentation for initial/renewal of licence for a foster care agency

**Children’s residential facility application documents**
**Application for an initial children’s residential facility licence**

**Application for the renewal of a children’s residential facility licence**

**Checklist of documentation for an initial/renewal children’s residential facility**

**Legislation and regulations**

- **Children and Young People (Safety) Act 2017** – Chapter 7, Part 6 and 7
- **Children and Young People (Safety) Regulations 2017**
- **Work Health and Safety Act (SA) 2012**
- **Child Safety (Prohibited Persons) Act 2016**
- **Child Safety (Prohibited Persons) Regulations 2019**

**9. Document control**

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<tr>
<th>Publication date</th>
<th>2 July 2019</th>
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<tr>
<td>Replaces</td>
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</tr>
<tr>
<td>Accountable Director (name and position)</td>
<td>Jennifer Browne, Chief Financial Officer, Department for Child Protection</td>
</tr>
<tr>
<td>Accountable Director (phone)</td>
<td>(08) 8226 1102</td>
</tr>
<tr>
<td>Lead Writer (name)</td>
<td>Lisa Barnes</td>
</tr>
<tr>
<td>Applies to</td>
<td>All Departmental officers and External Licensed Foster Care Agencies or Children’s Residential Care Facility Operators</td>
</tr>
<tr>
<td>Approved by</td>
<td>Policy Governance Committee</td>
</tr>
<tr>
<td>Approval date</td>
<td>1 July 2019</td>
</tr>
<tr>
<td>Commencement date</td>
<td>1 July 2019</td>
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