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| Human Services Regulator annual regulatory plan |
| 2023-24 |
| OFFICIAL |

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In this document, ‘Aboriginal’ refers to both Aboriginal and Torres Strait Islander people. ‘Indigenous’ or ‘Koori/Koorie’ is retained when part of the title of a report, program or quotation.

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# Foreword

As the operational regulatory team within the Department of Families, Fairness and Housing (the department), the Human Services Regulator (HSR) fulfills an important role in realising the department’s vision of empowering communities to build a fairer and safer Victoria.

Through delegations from the Minister for Disability, Minister for Children and the Secretary of the department, HSR’s role is to regulate the delivery of human services to minimise harm and protect the safety and rights of children, young people and adults.

We achieve this via the approach and strategies outlined in the *HSR regulatory strategy* and *HSR compliance and enforcement policy*. Both documents detail the risk-based, intelligence-led approach we use in our regulatory oversight of in-scope human services.

Drawing on these foundations and acknowledging that the vast majority of service providers and carers are committed to providing high quality human services, this annual regulatory plan details the specific activities we will focus on in 2023–24. These activities will include:

* strategies we believe will further strengthen safeguarding arrangements for people receiving human services
* building the capacity of regulated entities to meet their legislative obligations
* preparing our team for changes arising from the implementation of the *Social Services Regulation Act 2021*.

2023-24 marks the final year of the HSR. On 1 July 2024 the Social Services Regulator (SSR) will commence operations as provided for under the *Social Services Regulation Act 2021.* In doing so the SSR will replace existing regulatory arrangements led by the HSR under the *Children, Youth and Families Act 2005, Disability Act 2006*, and the *Supported Residential Services (Private Proprietors) Act 2010.* The SSRwill also become an integrated sector regulator under the *Child Wellbeing and Safety Act 2005.*

This will be a substantial period of change for the sector. The HSR will support work already underway to prepare regulated entities for the commencement of the SSR. We expect that the SSR will further issue its own guidance to the sector.

We will also ensure that our core regulatory functions are maintained and expect that all regulated entities will continue to meet their legislative obligations and maintain the safety of their clients throughout this period.

We look forward to working with human services providers[[1]](#footnote-2) and other key stakeholders to fulfil our respective obligations to uphold and promote the rights, safety and wellbeing of people receiving human services.

# Purpose of this document

This plan outlines our commitment to the Victorian community, and our regulatory focus for 2023–24. It should be read in conjunction with the HSR *Regulatory strategy* and *Compliance and enforcement policy.*

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| This document applies to the operations of the Human Services Regulator only.We expect the new SSR will issue its own statements on how it intends to exercise its regulatory powers. Any such statements will replace these documents. |

# Role

The roleof the HSR is to regulate in-scope human services to minimise harm and to protect the safety and rights of children, young people and adults.

We achieve this by:

* administering standards
* promoting good practice
* monitoring and enforcing compliance with relevant laws, regulations and standards
* building relationships.

The HSR regulates the delivery of in-scope human services, including:

* child, young person and family support services
* out-of-home care services and carers
* services for people with disabilities.
* supported residential services

The harms we aim to minimise and prevent include neglect and physical, emotional, sexual and financial abuse by service providers, staff and carers.

To do this, HSR undertakes a wide range of regulatory activities including:

* registration and approvals
* providing guidance, training and advice
* overseeing quality reviews against standards
* compliance monitoring and investigations
* incident response reviews
* enforcement

HSR undertakes these activities in a targeted way. We use a risk-based, intelligence-driven approach, consistent with our *Compliance and enforcement policy* and guided by our principles of being collaborative, accountable, proportionate, effective and clear.

# Our regulatory focus for 2023–24

For the financial year 2023–24, we will focus on the following strategic priorities.

* **Target high-risk individuals:** use the full force of the law to prohibit and exclude in-scope service providers and carers who deliberately abuse, exploit or neglect service users or repeatedly fail to comply with legislative obligations.
* **Enhance Governance and Management: Work to eliminate poor governance and management practices in duty-holders which are a strong driver of harm to services users.**
* **Improve collaboration:** work closely with other regulators, funding, and safeguarding bodies to address gaps and overlaps, improve intelligence, identify opportunities to reduce regulatory burden and strengthen escalation and referral approaches.
* **Manage and prepare for change:** provide support to duty-holders to manage change and maintain good practice to minimise impacts to service delivery arising from changes to the regulatory environment.
* **Build our capability:** further modernise and strengthen HSR’s regulatory practices to be better targeted, more proportionate, effective and transparent and ready to use all of our regulatory powers.

**Safety and wellbeing - In addition to these strategic priorities, in performing its compliance activities the HSR will focus on high-risk activities including administration of medication, ensuring that the appropriate health care and support is provided to service users and emergency management systems are maintained accordingly.**

## Target high-risk individuals

While most entities and individuals regulated by the HSR genuinely aim to provide the best services possible, the attitudes and behaviours of the small proportion unwilling or incapable of complying with their legislated requirements can lead to serious harm to people experiencing vulnerability.

Where there is evidence of deliberate non-compliance, abusive or exploitative behaviour that directly causes harm, we will apply the full force of the law including by placing limitations or restrictions, imposing penalties or seeking to prosecute those duty-holders and individuals.

We will also work with other regulators to share information and act jointly, as appropriate.

### Carers that are alleged to have sexually or physically abused children in out-of-home care

The intent of the registration and disqualification processes for out-of-home carers under the *Children, Youth and Families Act 2005* (CYF Act) is to provide greater protection for children in the out-of-home care sector.

A key role for the HSR is to investigate allegations of child physical and sexual abuse by carers that, if substantiated, may result in the disqualification by the Victorian Suitability Panel of carers who pose an unacceptable risk of harm to children and young people. These investigations may also result in referral of the matter to Victoria Police and other regulatory bodies where relevant.

### Safety screening

Failure to undertake appropriate safety screening before employing staff directly places children and people experiencing vulnerability at risk of abuse. This can also result in organisations having to redirect (often limited) resources to investigating, and implementing additional supports for clients as a result of potential or actual abuse, potentially reducing supports available for other service users.

Worker screening, whether in the form of reference, police or disqualified carer checks, is a critical frontline strategy designed to reduce the risk of abuse. Appropriate documented procedures and genuine oversight, governance, and staff training are essential to robust systems.

HSR will investigate instances of failures to undertake safety screening and take enforcement action as appropriate.

## Enhance Governance and Management

HSR has identified that poor governance and management practices in duty-holders lead to a lack of management oversight of practice and is a driver of harm to service users. Both the Human Services Standards[[2]](#footnote-3) and the Child Safe Standards have requirements relating to sound governance and management practices. The Social Services Standards will replace the Human Services Standards from 1 July 2024 and also contain similar requirements.

Depending on the nature of the organisation, accountability for ensuring compliance with all legislative obligations will typically sit with either a Board of Management or owner/proprietor. Whatever the structure, all organisations must have governance and management processes and systems in place, appropriate to the size and complexity of the organisation, to monitor the effectiveness, quality and compliance status of its services.

HSR will prioritise governance and management requirements in Child Safe Standards assessments and in its risk-based approach to compliance and enforcement against the Human Services Standards.

### Enhance safeguarding culture

The ability of an organisation to prevent, detect and respond to abuse is heavily influenced by the prevailing culture.

If safeguarding is front of mind at all levels, especially senior management, it is more likely that systems are protective and issues will be picked up, reported and addressed. This includes:

* prioritising the safety of the people it supports
* understanding the nature and risks of abuse
* taking and promoting deliberate steps to protect service users
* a commitment to remove barriers to reporting abuse.

A strong safeguarding culture protects both the people the service supports and the organisation itself.

HSR will continue to provide guidance to organisations that assists them to build an effective and proactive safeguarding culture that promotes protecting people experiencing vulnerability and will hold organisations that don’t to account.

### Reporting of abuse

All organisations in-scope of Part 3.4 of the Children, Youth and Families Act **are required to** report to HSR allegations of physical or sexual abuse by an out-of-home carer of a person in their care[[3]](#footnote-4).

Failure to report abuse in a timely manner:

* places children and people experiencing vulnerability at risk of repeated abuse
* prevents the timely provision of supports to the victim of the abuse which can entrench the impact of the abuse, requiring more intensive supports in future.
* delays and potentially impacts on the investigation of the allegations

HSR will continue to support organisations to report instances of abuse in a timely manner through guidance that helps them understand the systems they should have in place and what should be reported.

We will consider all regulatory options, including sanctions, to reduce the risk of further harm to people being supported if:

* organisations fail to report abuse
* policies and procedures are inadequate to ensure consistent reporting of abuse.

## Improve collaboration

HSR works with many other organisations to share information, gather intelligence, solve intersecting regulatory problems or refer issues as appropriate.

We work with the department’s funding areas to enable coordinated responses to risk. We also engage with stakeholders and client group representatives.

We will continue to build and strengthen our collaboration with other regulators, funding and safeguarding bodies to:

* address gaps and overlaps
* improve the quality and breadth of intelligence
* identify opportunities to reduce regulatory burden
* further strengthen escalation and referral approaches.

In particular, we will continue to work with fellow Child Safe Standards regulators to build appropriate consistency in our regulatory approaches, and coordinate in areas of overlap.

We will continue to work in a respectful and constructive manner with service providers to maximise compliance and, ultimately, to improve outcomes for people receiving services.

In supporting our commitment to increase Aboriginal self-determination for Aboriginal people, we will proactively engage with Aboriginal communities to inform our regulatory approach.

### Interface with the National Disability Insurance Scheme

The implementation of the NDIS has resulted in a significant shift in the range and availability of disability-related supports. Organisations that provide these supports are expanding their business models, new forms of accommodation are arising, and the interface between the NDIS and other services is becoming more complicated.

The right of individuals to choose their services providers is enshrined in legislation at both the state and national level.

HSR will provide additional guidance on the expectations of proprietors of supported residential services (SRS) to support them to comply with their obligations. The HSR will continue to investigate issues such as:

* restricting the rights of SRS residents to choose or have access to their NDIS provider
* charging services to the NDIS that should be provided under the *SRS residential and services agreement*
* SRS residents being charged twice, through SRS fees and their NDIS support package, for the same supports
* not delivering or facilitating the provision of supports as required in a resident’s ongoing support plan

We will also refer reports of alleged fraud or poor quality NDIS supports to the National Disability Insurance Agency (NDIA) and NDIS Quality and Safeguards Commission.

In line with our responsibilities as a sector regulator for the Child Safe Standards, we will also work with the NDIA and NDIS Quality and Safeguards Commission as part of our oversight of the implementation of Child Safe Standards in NDIS funded supports.

## Manage and prepare for change

### Reviewing our approach to the regulation of Aboriginal cultural safety

The majority of organisations regulated by the HSR are required to demonstrate an understanding of and ability to promote and uphold Aboriginal cultural safety in line with the Child Safe Standards and/or Human Services Standards.

In the context of the move towards a Victorian Treaty with First Peoples, and the Yoorrook Justice Commission, HSR is committed to the principle that Aboriginal people are embedded in the regulatory oversight of Aboriginal cultural safety in organisations. In line with this, we have created the new designated role of Manager, Aboriginal Cultural Safety and Engagement to lead and shape our work in this area.

We will work with the Aboriginal community and organisations to review, progress and embed a culturally appropriate, respectful and effective approach based on the principle of continuous improvement.

### Prepare for the phasing out of certification against the Human Services Standards

As part of the implementation of the *Social Services Regulation Act 2021* the regulatory requirement for in-scope service providers to achieve certification against the Human Services Standards (HSS) via an audit conducted by an independent review body will be phased out from 1 January 2024.

In-scope organisations are still required to maintain compliance with the HSS, and the HSR will use a risk-based approach to compliance monitoring and enforcement against the HSS. Regulated entities should consider how they will maintain and monitor compliance in the absence of compulsory independent certification.

## Build our capability

HSR will continue to further strengthen the core capabilities necessary to be an effective regulator. We will:

* further develop internal systems and analytics capabilities for a data-driven, risk-based approach to target our resources most effectively, maximising our harm prevention activities and minimising impact on good operators
* use the full suite of regulatory tools available to us, including infringements and prosecutions as appropriate to bring poor operators up to required compliance standards to minimise the risk of harm and protect the rights of service users.
* continue to work jointly with and strengthen referral processes to, regulatory peers and safeguarding and funding bodies to effectively coordinate responses to issues that may be in-scope of multiple jurisdictions.
* Work with other areas of the department to prepare for the transition to the Social Services Regulator and to develop the capability of regulatory officers in line with the expectations and responsibilities of the new regulator.

# Our measures for 2023–24

## Performance measures

| Measure | 2023–24 target |
| --- | --- |
| Disqualified carer checks completed within 1 business day of receiving complete information | 95% |
| Number of completed CYF Act and Disability Act registration applications processed within 6 weeks | 90% |
| Number of completed SRS applications processed within statutory timeframes | 95% |
| Prescribed reportable incident investigations for SRS completed within 21 days | 70% |
| Community Visitor notifications for investigation related to SRS are acknowledged, triaged and allocated within 2 business days | 90% |
| SRS Complaints that are received are resolved within 30 days | 70% |

## Risk-based targeting

| Measure | 2023–24 target |
| --- | --- |
| Proportion of high-risk SRS inspected at least once every 6 months | 60% |

1. Note: Human services providers within the scope of the HSR regulatory jurisdiction are also called ‘duty-holders’ because they have obligations or duties under the law. [↑](#footnote-ref-2)
2. The standards published in *Victoria Government Gazette* G21 (24 May 2012) as the *Department of Human Services Standards (Disability) Determination 2012* and the *Department of Human Services Standards (Children, Youth and Families) Determination 2012*, respectively (now each administered by the Department of Families, Fairness and Housing (DFFH)), known as the Human Services Standards (Standards) [↑](#footnote-ref-3)
3. There is information on the DFFH website to support organisations to understand what to report <https://providers.dffh.vic.gov.au/carer-register> [↑](#footnote-ref-4)