

# Human Services Regulator regulatory strategy

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# Contents

<b>Message from the Secretary .....</b>	<b>4</b>
<b>Purpose of this document .....</b>	<b>5</b>
Context .....	5
<b>Role .....</b>	<b>5</b>
<b>Who we regulate .....</b>	<b>6</b>
<b>Regulatory principles and commitments .....</b>	<b>7</b>
<b>Outcomes .....</b>	<b>7</b>
Safety for service users .....	8
Rights of service users .....	8
Service provider accountability .....	8
Service provider capability .....	8
<b>Our regulatory approach .....</b>	<b>8</b>
Standards .....	9
Promoting good practice .....	10
Monitoring and enforcing compliance .....	10
Building relationships .....	11
<b>Our regulatory focus .....</b>	<b>12</b>
Drivers of harm .....	12
Strategic focus areas .....	14
Prioritising our work .....	15
<b>Appendix A: Image descriptions .....</b>	<b>17</b>
Our regulatory activities .....	17

## Message from the Secretary

The Department of Families, Fairness and Housing (the department) seeks to create a fairer and safer and more inclusive Victoria – one that is free from disadvantage and discrimination, one where people can build meaningful lives. To achieve these outcomes, the department develops and delivers policies and programs, and provides and funds a broad range of human services that support and enhance the wellbeing of all Victorians.

The department also has an important role in ensuring the safety and upholding the rights of people receiving human services. The children, young people and adults who access human services are entitled to have them be delivered in a way that is safe and that respects and promotes their rights.

At the delegation of the Minister for Disability, Ageing and Carers and myself, the Human Services Regulator (HSR) has regulatory oversight across a broad range of human services throughout Victoria, including those provided or funded by the department. Regulated sectors include out-of-home care services and carers, youth services, family violence services, community services providers, supported residential accommodation and services for people with disabilities.

Most service providers and carers do the right thing but, where this is not the case, it is important that safeguards are in place to enable a timely and effective response. It is important that we collectively strive for the delivery of high-quality services and work to avert the risk of harm to people. The *HSR Regulatory strategy* outlines the HSR's guiding principles and regulatory approach for ensuring that regulated service providers meet their obligations and that the safety and rights of service users are upheld.

I present this strategy to you as the department's plan for realising its mission of regulating human services to protect the safety and uphold the rights of children, young people and adults.

Brigid Monagle  
**Acting Secretary**  
**Department of Families, Fairness and Housing**

# Purpose of this document

This strategy describes how the Human Service Regulator (HSR) will achieve its mission of regulating human services to protect the safety and uphold the rights of children, young people and adults.

**Note:** This document applies to the operations of the Human Services Regulator only. With the recent passage of the *Social Services Regulation Bill 2021*, the Social Services Regulator will replace the HSR. The new Social Services Regulator will issue its own statements about how it intends to exercise its regulatory powers under the new legislation. Any such statements will replace this document.

## Context

We regulate human services providers under the following regulatory schemes:

- *Child Wellbeing and Safety Act 2005* (sector regulator for Child Safe Standards for prescribed services)
- *Disability Act 2006* (registration and Human Services Standards)
- *Children, Youth and Families Act 2005* (registration, Human Services Standards and Victorian Carer Register, including sections 81 and 82 reports of abuse and independent investigations)
- *Supported Residential Services (Private Proprietors) Act 2010* (including *the Supported Residential Services (Private Proprietors) Regulations 2012*)

We engage with sectors at various levels. These span government-funded service providers, privately owned businesses and out-of-home carers. This diverse environment involves many peer regulators and includes service providers regulated by different regulatory frameworks.<sup>1</sup>

## Role

Our role is to regulate 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.

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<sup>1</sup> Includes entities co-regulated by HSR and the NDIS Quality and Safeguards Commission or the Commission for Children and Young People

## Who we regulate

'**Human services providers**' are entities or people offering services within the scope of the HSR's regulatory jurisdiction. Human services providers are also called '**duty holders**' because they have obligations or duties under the law. See Table 1 for examples of providers and services.

**Table 1: Human services duty holders**

Human services providers	Example service
Entities and individuals registered under the <i>Children, Youth and Families Act 2005</i> (registration, Human Services Standards and Victorian Carer Register, including sections 81 and 82 reports of abuse)	<ul style="list-style-type: none"> <li>• Community-based child and family services</li> <li>• Out-of-home care such as residential care and foster care</li> <li>• Family violence services</li> </ul>
Entities subject to the <i>Child Wellbeing and Safety Act 2005</i> (Child Safe Standards including the Reportable Conduct Scheme)	<ul style="list-style-type: none"> <li>• Out-of-home care such as residential care and foster care</li> <li>• Children and youth services</li> <li>• Homelessness support services</li> <li>• Disability and family violence services</li> </ul>
Entities and individuals registered under the <i>Disability Act 2006</i> (registration, Human Services Standards)	Disability service providers including: <ul style="list-style-type: none"> <li>• Multiple and Complex Needs Initiative services</li> <li>• behaviour intervention services</li> <li>• supported accommodation services</li> </ul>
Proprietors registered under the <i>Supported Residential Services (Private Proprietors) Act 2010</i>	Privately operated services that provide accommodation and personal support for people of different ages and support needs
Government-funded entities and individuals that do not need registration and provide services covered by the Human Services Standards	<ul style="list-style-type: none"> <li>• Homelessness support services</li> <li>• Some children, youth and family services</li> <li>• Some disability and family violence services</li> </ul>
Services directly provided by the department	<ul style="list-style-type: none"> <li>• Disability client services</li> <li>• Residential out-of-home care</li> </ul>

# Regulatory principles and commitments

Our work is guided by the regulatory practice principles listed in Table 2.

**Table 2: Regulatory principles and commitments**

Principle	Commitments
<b>Collaborative</b>	<p>We support duty holders to build their capabilities to deliver services that are safe and compliant.</p> <p>Where regulatory regimes overlap, we work with our regulatory peers to share information and target regulatory effort.</p> <p>We work with the department's funding areas to enable coordinated responses to risk.</p> <p>We engage with stakeholders and client group representatives.</p>
<b>Accountable</b>	<p>We are objective and open in our decision making and processes. We assist duty holders to understand our regulatory approach and areas of focus.</p> <p>We document decisions appropriately, including justification for actions and exercise of powers.</p> <p>We report on our performance to ensure transparency and enable continuous improvement.</p>
<b>Proportionate</b>	<p>Regulatory measures and responses fit the risks and behaviours they address.</p> <p>Outcomes from our enforcement activities are consistent and predictable.</p>
<b>Effective</b>	<p>We analyse information to identify risks and set regulatory objectives.</p> <p>We allocate resources to areas where they have the greatest positive effect and protect the safety, wellbeing and rights of people accessing human services.</p> <p>Enforcement action is timely to minimise impacts of harms and maximise the deterrent effect of sanctions.</p>
<b>Clear</b>	<p>We communicate our message, advice and enforcement actions in a clear and easily understood way with stakeholders, duty holders and client groups.</p>

## Outcomes

We regulate human services providers to ensure harm stops or is reduced. Outcomes we are focussed on include:

- service user safety
- rights of service users
- service provider accountability
- service provider capability.

Our regulatory activities help to promote and achieve these outcomes.

We evaluate how well we are meeting these outcomes when we take regulatory action or deliver programs and interventions focused on reducing harm.

We will report on our performance, including its contribution to these outcomes.

## Safety for service users

Children, young people and adults using human services are safe from abuse and neglect in environments that are safe, secure and fit-for-purpose.

## Rights of service users

Children, young people and adults using human services are supported to:

- make choices about their care
- give feedback or make complaints about services
- have a say in decisions that affect them, in line with relevant legislation and the Victorian *Charter of Human Rights and Responsibilities Act (2006)*.

## Service provider accountability

Service providers have effective governance and organisational systems that ensure:

- safety of service users
- compliance with regulations and standards
- uninterrupted service delivery.

## Service provider capability

Services are given by a workforce that has the knowledge, ability and support to deliver safe services with care and skill.

# Our regulatory approach

We work in a complex legal and regulatory environment where human services providers may connect with multiple regulators.

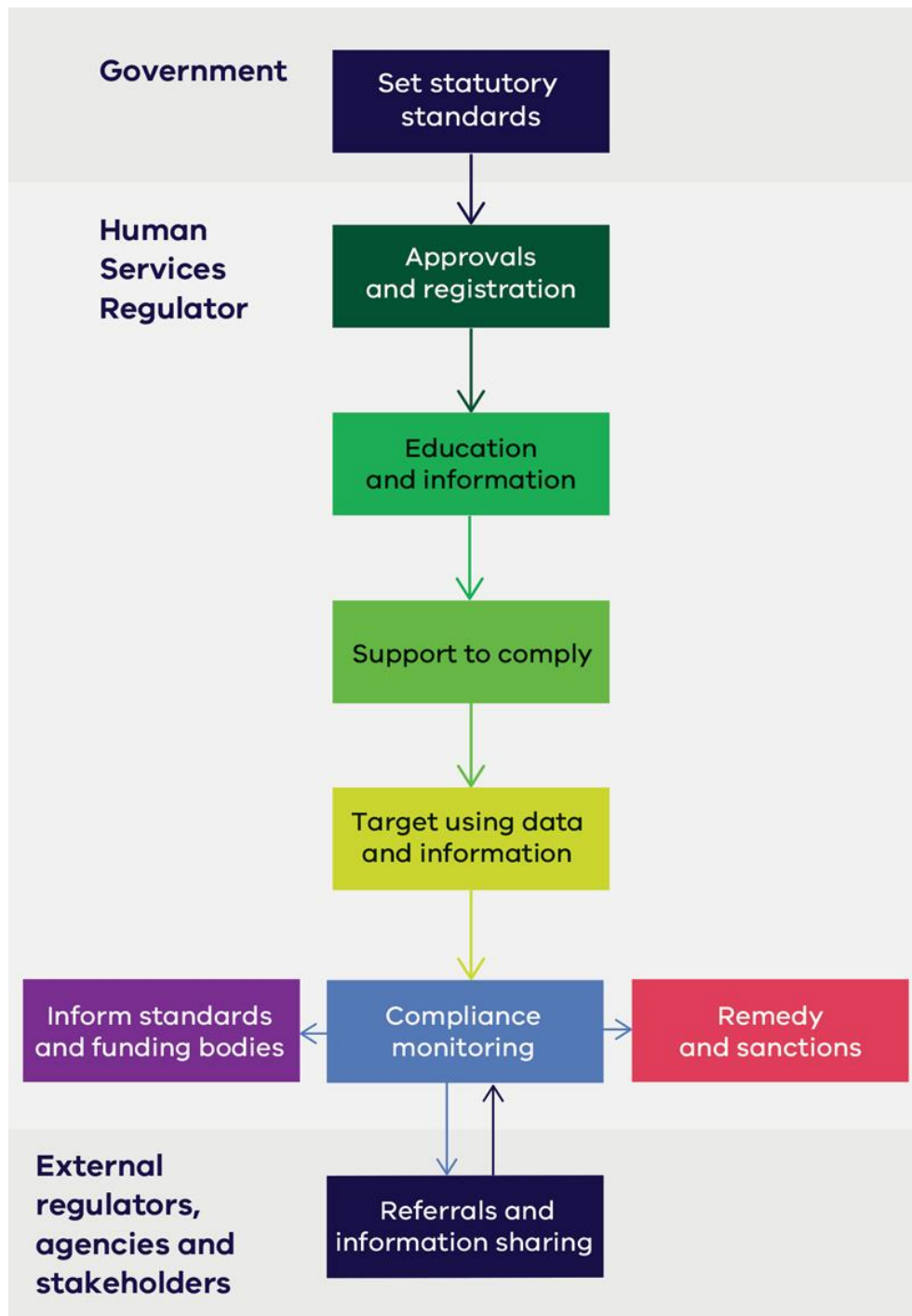
Some providers may also be managed by or get funding from the department. They may have more requirements to meet through contracts and funding agreements.

Consistent with our role statement, our approach is to:

- administer standards
- promote good practice
- monitor and enforce compliance
- build relationships.



Figure 1: Our regulatory activities



## Standards

The government sets the statutory standards that duty holders must meet.

We monitor compliance against these standards. We identify opportunities for improvement and work with departmental policy areas to update standards.

We administer approvals and registrations of entities and people across regulated sectors. We:

- establish the criteria for becoming a service provider for supported residential services
- control ongoing involvement in services through registration conditions, suspension or revocation where necessary.

## Promoting good practice

The duty holder is responsible for compliance. We expect duty holders to check for relevant information and stay up to date with changing industry practices.

We believe that most duty holders want to comply with laws and regulations. We help duty holders to meet their obligations and raise awareness of standards through:

- general education and information
- direct support to comply.

## Education and information

We promote voluntary compliance by engaging effectively with and giving information to the sectors we regulate.

We maintain guidelines and online resources, and share accessible information with duty holders, service users and the public.

## Support to comply

We give practical and constructive support to duty holders on standards and identifying and managing risks.

## Monitoring and enforcing compliance

### Target using data and information

To target our efforts using intelligence, we:

- collect data
- analyse trends
- identify risks
- share information with peers.

This helps us identify sectors and service providers where the risk of harm is greatest. It also lets us focus resources on regulatory activities that have the most positive effect.

### Compliance monitoring

We monitor duty holders' compliance through:

- planned or responsive inspections
- desktop compliance assessments
- investigating issues and reports
- independent reviews against standards
- investigating allegations of abuse.

### Remedy and sanction

We enforce compliance through remedy and sanctions based on:

- the impact and likelihood of harm

- the duty holder's behaviour and attitude to compliance.

Remedies may include:

- issuing compliance guidance
- notifications of non-compliance
- remedial notices
- applying conditions or restrictions on registrations.

Significant non-compliance may lead to sanctions like:

- official warnings
- infringements
- suspending or cancelling registration
- prosecution for offences under relevant laws.

## Building relationships

### Inform standards and funding bodies

When we detect significant risks or non-compliance by service providers funded by the department, we refer these to the relevant funding area for review.

Recognising that regulated duty holders often offer services to people experiencing vulnerability, we inform the department's funding areas to facilitate coordinated responses if our regulatory decisions would jeopardise service delivery and significantly affect service users.

### Referrals and information sharing

The HSR, other regulators, agencies and stakeholders work together on referrals and information sharing.

We inform and work with other regulators when they are better placed to regulate the risks of non-compliances within their jurisdiction. This can include referrals, joint regulatory activities or information sharing when lawful and necessary.

# Our regulatory focus

## Drivers of harm

Our role is to minimise and prevent harms from happening to people using human services.

**Figure 2: Common harms and their drivers**



We have identified common **harms** across the sectors we regulate, including:

- neglect by service providers, staff and carers
- physical abuse

- emotional abuse
- sexual abuse
- financial abuse.

There are common **themes** or patterns of behaviour that lead to these harms. These relate to:

- lack of supervision
- limited monitoring and reporting
- malicious individuals
- avoiding obligations
- exploitative duty holders or deliberate misconduct by duty holders
- unsuited service environment.

These themes stem from **common drivers** or root causes of issues, including:

- limited capability
- limited financial capacity
- shortcomings of culture and governance.

We aim to tackle these harms and drivers of harm to the extent of our regulatory role.

## Strategic focus areas

To address these drivers of harm, we will focus on the following.

### Improve governance practices

Increase the focus of service provider boards or proprietors on assigning responsibility and expectations for oversight. This will help those in management and control to more effectively address risks and avoid repeat problems.

### Improve duty holder management and accountability

- Help duty holders better manage priority issues to reduce risks.
- Facilitate less regulatory oversight for duty holders with high levels of effective self-management.

### Enhance safeguarding culture

- Highlight the value of safeguarding practices.
- Directly address those who try to avoid or undermine safeguarding requirements.

### Remove high-risk individuals

Use the full force of the law to stop and exclude people who deliberately abuse, neglect or repeatedly fail to comply.

### Address sector capability

- Offer guidance, training and information sharing opportunities when a provider enters the market.
- Offer in-field compliance advice.
- Give sector information to policy and funding areas of the department.

### Manage and prepare for change

Help duty holders manage change and maintain good practice to minimise impacts to service delivery due to structural changes to the sector.

### Build our capability

Modernise and strengthen our regulatory practices to be:

- better targeted
- more proportionate
- more effective
- more transparent.

### Improve collaboration

Work closely with other regulators and funding areas to:

- address gaps and overlaps
- improve intelligence

- identify opportunities to reduce regulatory burden
- strengthen escalation and referral approaches.

## Prioritising our work

To address these focus areas, we will approach this work in two phases.

### Phase 1: Address compliance priorities and build key capabilities

During the 2021-22 period, we will further strengthen the core skills needed to be an effective regulator, including the following.

#### Revise internal processes

We will revise internal processes for:

- risk-based prioritising
- compliance assessment and response
- inspections
- improving intelligence gathering and assessment.

#### Escalation and referral

We will:

- clarify escalation criteria
- improve understanding between regulatory peers and funding bodies during escalation and referral processes.

#### Non-compliance

We will:

- focus on critical areas of non-compliance to reduce risks across regulated sectors
- escalate our response to high-risk service providers (such as those with a history of ignoring requirements) and stop them from working in the sector when necessary
- promote a safeguarding culture among service providers, including surveillance and screening people with a higher risk of not complying
- address governance and duty holder capability by focusing on the most urgent issues.

### Phase 2: Demonstrate a consolidated regulatory approach

Learning from phase 1, we will identify a program of priority governance and management topics. We will build on these foundations and align the reforms with proposed statutory and administrative changes, consolidating our regulatory approach across sectors and legislative frameworks. Our approach will be refined and tested, with improved intelligence and monitoring skills supporting adaptation and improvement. This will prepare us for:

- changes to child safety legislation
- social services reform
- testing and applying new regulatory tools over time.

To address the causes of harms, we will test the right mix of:

- education
- support
- compliance monitoring
- compliance and enforcement responses.



# Appendix A: Image descriptions

## Our regulatory activities

The **government** sets statutory standards.

The **Human Services Regulator (HSR)** activities:

1. Approvals and registration
2. Education and information
3. Support to comply
4. Target using data and information
5. Compliance monitoring.

Compliance monitoring may result in:

- Inform standards and funding bodies
- Remedy and sanctions
- Referrals and information sharing between HSR and **external regulators, agencies and stakeholders** (in both directions).

[Return to Our regulatory approach.](#)