**Statement of Roles and Responsibilities**

Between the Social Services Regulator and the Department of Families, Fairness and Housing

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# Purpose

This Statement of Roles and Responsibilities (**the Statement**) is for the Social Services Regulator (**the Regulator**), the Department of Families, Fairness and Housing (**the** **department**) and Victorian social services providers. It sets out where the Regulator’s regulatory responsibilities will overlap with the Department’s service agreement management functions, and how this will be addressed.

# Objectives

The Regulator and the department have complementary roles in ensuring that:

* the rights, safety and wellbeing of Victorian social service users are supported and that safeguarding systems are effectively administered; and
* social service providers are viable and effectively governed and that they meet probity requirements.

Likewise, social services providers share an interest with the Regulator and the department in ensuring that safe and quality services are delivered to Victorian social service users.

The Regulator and the department have distinct roles and responsibilities in funding and regulating social services. This Statement aims to outline these distinct roles and responsibilities and the times when they may overlap.

The Statement acknowledges:

1. the principles in the *Social Services Regulation Act 2021* (SSR Act) state that the Regulator works with other relevant agencies, including the department, to ensure the safe delivery of social services
2. the principle that the Regulator and department share the aim, where possible, of reducing duplication and regulatory and administrative burden – with the primary consideration being to protect service users
3. that in some areas the department’s and the Regulator’s activities will overlap and there will be times when both entities are appropriately engaged with a service provider.

The Statement does not:

1. dictate the way the Regulator or the department engage with the social services sector
2. restrict the Regulator or the department’s performance of their regulatory or service agreement management functions or use of their powers.

# Agency descriptions

## Social Services Regulator

The Regulator is an independent statutory authority established under the SSR Act.

The SSR Act establishes a new framework for social services regulation in Victoria. The purposes of SSR Act include to:[[1]](#footnote-2)

* provide for the registration of social service providers
* require registered social service providers to comply with the Social Service Standards
* enable the regulator to ensure services comply with the Act
* provide for the collection, use and disclosure of information for the purposes of the Act.

The Regulator is an independent statutory agency subject to the general direction and control of the Minister for Disability. The Minister may not direct the Regulator on a specific regulatory matter.[[2]](#footnote-3) The Regulator’s responsibilities include to:[[3]](#footnote-4)

* protect the rights of social service users
* promote and support the safe delivery of social services
* minimise the risks of avoidable harm caused by abuse or neglect in connection with delivering social services.

Under the SSR Act, the Regulator also administers the Worker and Carer Exclusion Scheme for out-of-home care workers and carers.[[4]](#footnote-5) It is the integrated sector regulator for administering the Child Safe Standards Scheme for social service providers.[[5]](#footnote-6)

The Regulator will also engage with integrity bodies and other regulators when their activities involve matters within the Regulator’s remit. This may include:

* The Independent Broad-based Anti-corruption Commission
* The Victorian Ombudsman
* The Victorian Auditor-General
* The Office of the Victorian Information Commissioner
* The Commission for Children and Young People
* The Office of the Registrar of Indigenous Corporations
* Consumer Affairs Victoria
* The Victorian Disability Worker Commission
* The Victorian Disability Services Commissioner

## Department of Families, Fairness and Housing

The department has a wide human services portfolio. It is responsible for:

* child protection
* children and family services
* preventing and responding to family violence
* housing and homelessness services
* disability
* sexual assault services
* LGBTIQA+ equality
* care services
* veterans
* the offices for Women and Youth.

The department has important legal responsibilities in providing child protection services. Many of the services linked to these responsibilities are also social services within the meaning of the SSR Act and the Social Services Regulations 2023 (Regulations). The department answers to, and advises, responsible minister(s) about these matters.

The department contracts service delivery to organisations it funds using the Service Agreement.[[6]](#footnote-7) This agreement includes:

* standard terms and conditions
* the department’s requirements for delivering each program
* the mutual obligations and responsibilities of the department and service providers.

The department’s roles related to the social services sector include:

* *Funder of social services*: The department is the funder and contract manager for many services that are in scope of the regulator. It provides annual funding of about $2.2 billion for delivery of social services across approximately 850 entities in the social services sector.
* *System steward for providing social services*: The department ensures funding is used effectively to achieve outcomes for the community. It oversees and manages system policies, infrastructure, performance, policy and planning to ensure continuity of services for the Victorian community.
* *Capacity builder*: The department supports learning and innovation, and shares data and builds capacity to measure outcomes.
* *Quality governance.* The department builds sector capability in quality governance. It supports services to meet expectations for quality and safety, provides leadership, support and direction to services and ensures services have the relevant information to support quality and safety.

The department’s roles related to the Regulator include:

* *A registered services provider*: The department is also a registered service provider. This role is governed by the legal requirements and guidance that apply to all service providers.
* *A regulated entity for Child Safe Standards*: The department must comply with the Child Safe Standards. This is governed by the legal requirements and guidance that apply to all entities within the scope of the Social Services Regulator.

The department’s role across all these domains requires it to engage with multiple regulators and statutory entities in addition to the SSR, including:

* The Independent Broad-based Anti-corruption Commission
* The Victorian Ombudsman
* The Victorian Auditor-General
* The Office of the Victorian Information Commissioner
* The Commission for Children and Young People
* The Office of the Registrar of Indigenous Corporations
* Consumer Affairs Victoria
* The Victorian Disability Worker Commission
* The Victorian Disability Services Commissioner

# Service agreement

The service agreement is the legal document used to engage service providers. It states that funded organisations and the department share an interest in a strong and sustainable community service sector. This interest extends to services that improve outcomes for the Victorian community in a way that:

* ensures quality of services
* is transparent and accountable
* demonstrates value for money
* is flexible enough to support innovation.

The service agreement is used to engage a range of community services. In addition to the Department of Families, Fairness and Housing, the service agreement is used by the Department of Education, Department of Jobs, Skills, Industries and Regions and the Department of Health. These departments fund services (including some services which are within the scope of the Social Services Regulator) up to a cumulative value of about $5 billion to over 2,500 entities.

Only those agencies that offer a registered social service or that are a regulated entity under the Regulator’s responsibilities as an integrated sector regulator for Chid Safe Standards[[7]](#footnote-8) are within the scope of the Regulator.

The Regulator’s role in regulating social services is referenced throughout the Service Agreement including in the following clauses:

| Clause | Summary of clause |
| --- | --- |
| 1.1 | Definitions: Standards |
| 3.1, 3.1A, 3.2 | Quality of service delivery |
| 3.6, 3.7, 3.8 | Continuity of service delivery |
| 3.9 | Social Services Regulator and sharing of information.  The service agreement states that the department will share information with the Regulator, including providers’ compliance with the agreement and the delivery of services by the provider. It also states that the Regulator will share information with the department about the provider, including providers’ compliance with the Social Services Standards.[[8]](#footnote-9) |
| 12.1, 12.1A | Service suspension |
| 12.6, 12.6A | Suspending of funding |
| 13 | Cessation |
| 14.3 | Termination by the department. |

# Managing overlap

The department’s and the Regulator’s activities will overlap in some areas. There will be times when both entities are appropriately engaged with a service provider.

Where this overlap occurs, the department and the Regulator will work together in a way that respects the legal functions and objectives of each agency. The Information Sharing Protocol (ISP) between the Regulator and the department also promotes collaboration by supporting the parties to proactively share information with each other, within any legal restrictions. This approach aims to:

* minimise the situations in which the department and the Regulator undertake the same tasks
* reduce regulatory burden for service providers
* coordinate government responses to social services
* support other functions under the SSR Act.

**Managing overlap – specific questions, on page 8** sets out:

* the areas in which the department and the Regulator both operate
* their respective focus in each area
* how any overlaps will be addressed.

# Broader regulatory environment

Some social service providers may deliver different streams of services, funded by different departments through the Service Agreement. If a problem arises in a social service provider that delivers several services, other departments such as the Department of Health and the Department of Education may have an interest in resolving that problem. Where this is the case, the Department of Families Fairness and Housing will lead the engagement with other funding departments.

A social service provider that delivers several services may also be overseen by other regulators, including (for example) the NDIS Quality and Safeguards Commission, The Victorian Registration and Qualifications Authority and Consumer Affairs Victoria. Several regulators may have an interest in resolving a problem that arises in such a social service provider. Where the SSR is one of multiple regulators engaged with a service provider, the SSR will work with other regulators to coordinate their approach.

# Relationships with community service organisations

Social service providers will have separate and direct relationships with and obligations to both the Regulator and the department. While the Regulator and department will work together to ensure wherever possible information is shared and to reduce duplication, regulatory and administrative burden, the two bodies are independent of one another. Neither can speak on behalf of the other, and compliance with one agency’s requirements or requests will not necessarily meet obligations to the other.

**The Regulator** is an independent regulator with a role (as set out in the SSR Act) to register and regulate social service providers. All registered social service providers have a legal duty to comply with the Social Service Standards. Social service providers that offer services or facilities to children or have children as employees or volunteers must also meet the Child Safe Standards.[[9]](#footnote-10)

The SSR Act and Regulations place obligations on social services providers. These obligations include notifying the Regulator of certain incidents. The department and the Regulator have agreed that where possible the Regulator will use the department’s Client Incident Management System (CIMS) to receive incident notifications. However, these are not the only notifications that social services providers will have to make to the Regulator. The Regulator may also ask for more information from social services providers under the SSR Act.

The Act gives the Regulator powers to require information from social services providers, and to require social service providers to accept inspections.

**The department** contracts social service providers to provide social services to Victorians who need them. The obligations that social service providers owe to the department flow from the Service Agreement and individual contracts between the department and social service providers.

As the purchaser of these services (and under its policy responsibility for the service system), the department has an interest in ensuring that social service providers are providing safe and quality services. The department uses its contractual tools to proactively recognise and prevent risk involving fraud, and corruption.

While these aims align with the role of the Regulator, the department is not a regulatory agency and does not have the same legal powers as a regulator.

# Consultation with the sector

The department and the regulator have their own ways of consulting with social service providers. These consultations can be used to address any issues involving overlapping roles and responsibilities.

The Regulator has set up a consultative committee and reference groups. The Social Services Regulator’s Consultative Committee includes representatives from peak bodies and the department. It is independently chaired.

Separate from the Consultative Committee, the Regulator will establish three reference groups covering:

* lived experience
* First Nations
* service providers.

The Human Services and Health Partnership Implementation Committee (HSHPIC) is the formal consultative group between the department and social service providers. Its membership includes peak bodies representing the community sector such as the Victorian Council of Social Services (VCOSS), and the Department of Health. The HSHPIC chair rotates between the chief executive officer of VCOSS and co-chairs from the two departments. HSHPIC meets every two months, with VCOSS providing secretariat functions.

The objectives of HSHPIC are to:

* promote and support collaboration and partnership between the two departments and the community sector to make positive changes for Victorians
* share and discuss common issues between the two departments and the community sector
* test new ideas and discuss new policy ideas.

The department is establishing a Service Agreement implementation group under HSHPIC. This group will consult on the Service Agreement implementation activities including consultation in relation to how the department will put in place the probity checks required under the Service Agreement. This will consider the Regulator’s role in ensuring the suitability of providers and their staff.

# Managing overlap – specific questions

As discussed above, the department’s and the Regulator’s activities will necessarily overlap in some areas. There will be times when both entities are appropriately engaged with a service provider.

This overlap is due to the department’s and the Regulator’s complementary roles. The department funds social services, through the service agreement, and oversights that funding agreement. The Regulatorregulates social services against the Social Service Standards in the SSR Act, and in respect of the Child Safe Standards.

There are therefore questions that each agency will need to seek answers to. The questions will occasionally be the same for each agency but will arise in different contexts. This table sets out the core questions that both the Regulator and the department may need to answer in relation to social service providers.

## Is a provider permitted to operate?

| Department – service agreement | Social Services Regulator – *Social Services Regulations Act 2021* | How we address overlaps |
| --- | --- | --- |
| The department will only fund social service providers that are registered.  (**Note:** If there is an urgent need for an unregistered provider to supply a funded social service, the Regulator can consider provisional registration.) | The Regulator registers social service providers when they meet the requirements set out in the SSR Act and Regulations.  It is an offence to provide social services without being registered under Pt 3 of the SSR Act (s 135).  Service providers only need to register as social service providers once. They can vary their registration once registered. | All organisations registered with the department under the *Children, Youth and Families Act 2005* or the *Disability Act 2006* have had that registration transferred to the Regulator.  The Regulator’s registration requirements are documented at [VIC.GOV.AU – Social Services Regulator registration](https://www.vic.gov.au/social-services-regulator-registration) https://www.vic.gov.au/social-services-regulator-registration.  The department’s service agreement requirements are documented at [Funded Agency Channel – Service agreement](https://fac.dffh.vic.gov.au/service-agreement) https://fac.dffh.vic.gov.au/service-agreement. |

## Are providers suitable people?

|  |  |  |
| --- | --- | --- |
| Department – service agreement | Social Services Regulator – Social Services Regulations Act 2021 | How we address overlaps |
| The CSA requires that agencies undertake background and probity checks on people involved in the governance of the agency.  The department will develop a policy for conducting these background checks during the term of the service agreement, in consultation with funded organisations and the regulator.  The department’s safety screening policy provides the department’s safety screening requirements for staff who deliver client facing services.[[10]](#footnote-11) | The Regulator is responsible for ensuring social service providers and their key personnel are ‘suitable people’ under the Regulations*.*  These checks cover previous criminal or regulatory findings in relation to key personnel and whether key personnel have, between them, the relevant qualifications, skills or experience to provide the service.  Refer to the Regulations Pt 2, sub-divisions 2 (probity) and 4 (qualifications, skills and experience).  The Regulator will check ‘key personnel’, which includes:   * members of the group that is responsible for executive decisions * the CEO of the provider * anyone else who has primary responsibility for planning, directing or controlling service delivery. | The department is setting up a service agreement implementation group under HSHPIC to consider these issues and minimise any overlap. |

## Are financial arrangements suitable?

|  |  |  |
| --- | --- | --- |
| Department – service agreement | Social Services Regulator – Social Services Regulations Act 2021 | How we address overlaps |
| Financial accountability requirements (FAR) – organisations report their financial position to the department and complete the financial accountability requirements in the Service Agreement Compliance Certification each year.  FAR reporting helps the department to ensure that there is a financially sustainable service system. Finance staff from the department analyse the financial position of each organisation and track their financial position trends over time. | The Regulator is responsible for ensuring that social service providers meet the requirements for registration. The Regulations outline the requirements for registration including suitable arrangements – refer to Pt 2, sub-division 3 and *Regulator guidance – registration*.  Regulation 19 outlines the matters to be considered including:   * governance and operational management structures * insurances * financial capacity.   Service providers must notify the Regulator of any changes to the volume and type of services provided and staffing changes that materially impact service delivery. | The Regulator has access to the department’s Service Agreement Management System (SAMS 2). It will only ask for information if it is not contained in SAMS 2. |

## Are premises suitable?

|  |  |  |
| --- | --- | --- |
| Department – service agreement | Social Services Regulator – Social Services Regulations Act 2021 | How we address overlaps |
| The department may outline requirements for premises in program guidelines such as *Program requirements for residential care in Victoria*. | The Regulator is responsible for ensuring premises used to provide social services are suitable to safely deliver services (regulations 25 and 26.)  Matters the Regulator will consider include the:   * safety and accessibility requirements of service users * suitability of fixtures and fittings.   Service providers must notify the Regulator under s43 of the SSR Act of any changes to premises that materially affect service delivery. | The department’s program guidelines are currently being revised and updated to appropriately reflect the role of the Regulator. |

## Are providers complying with their obligations?

|  |  |  |
| --- | --- | --- |
| Department – service agreement | Social Services Regulator – Social Services Regulations Act 2021 | How we address overlaps |
| The department uses a risk-based approach, informed by its *Agency Monitoring Framework*, Service Agreements and related policies to track contractual and funding arrangements. | The Regulator uses a risk-based approach to track compliance with the Social Service Standards.  The Regulator has a range of compliance and enforcement tools to track compliance against the Social Service Standards in a flexible, timely and balanced way. | The department **will not** conduct audits against the Social Service Standards and **will** refer any suspected or potential noncompliance to the Regulator for review.  The Regulator **will not** conduct audits against the CSA and Applicable Departmental Policies and **will** refer any suspected or potential noncompliance with the CSA to the department for review as per the ISP.  The ISP states that the department and the Regulator will share information about non-compliances in certain circumstances. |

## Are service users safe?

|  |  |  |
| --- | --- | --- |
| Department – service agreement | Social Services Regulator – Social Services Regulations Act 2021 | How we address overlaps |
| Providers notify the department of incidents as required by CIMS. | Service providers must notify the Regulator of certain incidents under s48 of the SSR Act.  The Regulator requires ‘critical incident notifications’ to be made by the close of business on the next business day.  Service providers must notify the Regulator of certain organisational matters under s 47 of the SSR Act. | The CIMS policy aligns with s48 notifications. The department is sharing CIMS reports with the Regulator.  For more information about critical incidents, visit [VIC.GOV.AU Social Services Regulator – Reporting a notifiable incident](https://www.vic.gov.au/ssr-reporting-notifiable-incident) https://www.vic.gov.au/ssr-reporting-notifiable-incident |

# Agency contacts

The Regulator and the department have specific organisational contacts for this statement.

The contact point for the Regulator is the General Counsel, Social Services Regulator

The department’s operational contact point will be Executive Director Service Agreement and Quality Systems.

Maintaining this statement and updating it as necessary is the responsibility of Executive Director of Regulation and Reform.

To receive specific contacts, email:

* the department at [regulationreform@dffh.vic.gov.au](mailto:regulationreform@dffh.vic.gov.au)
* the Regulator at [enquiries@ssr.vic.gov.au](mailto:enquiries@ssr.vic.gov.au)

To receive this document in another format, email the Social Services Regulator [enquiries@ssr.vic.gov.au](mailto:enquiries@ssr.vic.gov.au)

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1. SSR Act, s 1. [↑](#footnote-ref-2)
2. SSR Act, s 16. [↑](#footnote-ref-3)
3. SSR Act s 7. [↑](#footnote-ref-4)
4. SSR Act s 13(e). Please refer to [VIC.GOV.AU Social Services Regulator – The Worker and Carer Exclusion Scheme](https://www.vic.gov.au/worker-and-carer-exclusion-scheme) https://www.vic.gov.au/worker-and-carer-exclusion-scheme for more information about the scheme. [↑](#footnote-ref-5)
5. SSR Act s 14. Please refer to [VIC.GOV.AU Social Services Regulator Changes to the regulation of Child Safe Standards](https://www.vic.gov.au/changes-regulation-child-safe-standards) https://www.vic.gov.au/changes-regulation-child-safe-standards for more information about CSS. [↑](#footnote-ref-6)
6. [Funded Agency Channel – Service agreement](https://fac.dffh.vic.gov.au/service-agreement) https://fac.dffh.vic.gov.au/service-agreement [↑](#footnote-ref-7)
7. SSR Act s 14. For more information, refer to [VIC.GOV.AU Social Services Regulator – Child Safe Standards](https://www.vic.gov.au/changes-regulation-child-safe-standards) https://www.vic.gov.au/changes-regulation-child-safe-standards [↑](#footnote-ref-8)
8. For more about how the department and the regulator share information in line with statutory requirements, refer to the Information Sharing Protocol. [↑](#footnote-ref-9)
9. SSR Act s 14. For more information, refer to [VIC.GOV.AU Social Services Regulator – Child Safe Standards](https://www.vic.gov.au/changes-regulation-child-safe-standards) https://www.vic.gov.au/changes-regulation-child-safe-standards [↑](#footnote-ref-10)
10. https://providers.dffh.vic.gov.au/safety-screening-policy [↑](#footnote-ref-11)