

**Information Sharing Protocol**

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

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# Purpose

This protocol sets out agreed principles for sharing of information between the Social Services Regulator (**the Regulator**) and the Department of Families, Fairness and Housing (**the** **department**). It aims to establish an effective, efficient and consistent approach to information sharing between the Regulator and the department.

It acknowledges that the Regulator and the department share an interest in ensuring that the rights, safety and wellbeing of Victorian social service users are supported, and safeguarding systems are effectively administered.

The information sharing provisions in the *Social Services Regulation Act* 2021 (Vic) (**SSR Act**) require relevant agencies to give precedence to the wellbeing and safety of service users or a class of service users over the right to privacy, and to work collaboratively in a manner that respects the functions and expertise of each relevant agency.[[1]](#footnote-2) Subject to any legislative restrictions on information disclosure, the Regulator and the department will proactively exchange information and respond to requests for information to assist each other in their roles under relevant legislation and as set out in this protocol. While mechanisms are in place to seek information, the onus is on the parties to this agreement to be proactive about sharing information, as far as permitted by relevant legislation and privacy principles.

This protocol is not intended to dictate the way the Regulator or the department engage with the social services sector or to restrict the Regulator or the department’s performance of their respective regulatory or contract management functions or use of their powers.

**This protocol does not relate to the department’s role as a registered service provider.** The department’s provision of information to the Regulator as a service provider will be governed by the legislative requirements and guidance that apply to all service providers.

This protocol, including updates, will be made publicly available to all funded agencies.

# Introduction

## 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:[[2]](#footnote-3)

* specify the objects, functions and powers of the Regulator
* 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 compliance 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.[[3]](#footnote-4) The Regulator’s objects include to:[[4]](#footnote-5)

* protect the rights of social service users
* promote and support the safe delivery of social services
* to minimise the risks of avoidable harm caused by abuse or neglect in connection with the delivery of social services
* encourage a culture of continuous quality improvement in providing social services.

## The Department of Families Fairness and Housing

The department is responsible for child protection, children and family services, prevention of and response to family violence, housing and homelessness services, disability, sexual assault services, LGBTIQA+ equality, care services, veterans, family services and the offices for Women and Youth.

The department contracts service provision for some programs to funded organisations using the Service Agreement. This provides standard terms and conditions for all funded service organisations and the department’s requirements for delivery of each program it funds.

This protocol will support the department’s role as:

* contract manager and service funder for many services in-scope of the Regulator
* system or market steward for the social services sector, that ensures funding is effectively used to achieve outcomes for the community and oversees and manages system policies, infrastructure, performance, policy and planning.

### Department as a Service Provider

This protocol does not relate to the department’s role as a registered service provider.

The department’s provision of information to the Regulator as a service provider will be governed by the legislative requirements and guidance that apply to all service providers. Serious incidents occurring during service provision by the department will be reported through the Client Incident Notification System (CIMS) in accordance with the CIMS Policy.

In its provision of services, the department is also bound by requirements as a government department under legislation, including the *Financial Management Act 2004* and *Privacy and Data Protection Act 2014.* The department is accountable to Parliament and its delivery of services scrutinised through processes including the Public Accounts and Estimates Committee Hearings,

## Why share information?

The Regulator and the department recognise they both have responsibilities when the rights, safety and wellbeing of Victorian social service users is at risk. The objectives of the Regulator and the responsibilities of the department will both be supported by sharing of information, within any legislative restrictions.

The Regulator and the department may share information with each other to:

* effectively use regulatory intelligence
* reduce regulatory and reporting burden for service providers
* coordinate government responses to social services, and
* support functions under the SSR Act.

The Regulator and the department have different roles and responsibilities in relation to the provision of social services. Sharing information will not affect the ability of the Regulator and the department to act independently to fulfill their responsibilities.

# Governing legislation

The Social Services Regulation Scheme is established in the following legislation and regulations:

* *Social Service Regulation Act 2021*
* *Social Services Regulations 2023*
* *Social Services Regulation Transitional Regulations 2023*
* *Social Services (Supported Residential Services) Regulations 2024.*

The Regulator and the department are also subject to the following legislation:

* *Privacy and Data Protection Act 2014*
* *Health Records Act 2001*
* *Charter of Human Rights and Responsibilities Act 2006*
* *Children Youth and Families Act 2005*
* *Family Violence Protection Act 1988*
* *Child Wellbeing and Safety Act 2005*
* *Freedom of Information Act 1982*
* *Victorian Data Sharing Act 2017*
* *Public Records Act 1973*

## Information sharing provisions under the SSR Act

Information sharing is a key part of the Social Services Regulation Scheme.

The SSR Act outlines:

* how the Regulator can collect, disclose and use information.
* a list of the principles the Regulator, and agencies, including the department, must consider when carrying out a function or exercising powers under the SSR Act.
* that the Regulator and the department must comply with privacy laws but give precedence to the wellbeing and safety of service users over the right to privacy.
* that agencies, including the department, must reasonably assist the Regulator in the performance of their functions and take reasonable steps to provide the Regulator with information it holds that may be relevant to the Regulator's functions.
* that agencies, including the department, may provide information if reasonably satisfied that the information is reasonably required for the performance of the Regulator’s functions.
* that the Regulator is permitted to share information with agencies, including the department, when required to perform a function that relates to the safe delivery of social services or the protection of service users under the law.

# General principles

The guiding principles of this protocol under which the information will be shared between the Regulator and the department are as follows:

1. When possible, the Regulator will obtain information about service providers within its remit and funded by the department directly from the department’s systems.
2. The Regulator and the department will access publicly available information as required to meet some of their information needs.
3. The Regulator and the department will act in accordance with the guiding principles in relation to reducing regulatory burden and duplication.
4. The Regulator and the department will only ask for information that is reasonably required to undertake their respective roles and responsibilities.
5. The Regulator will monitor and enforce the legislative obligations on service providers to ensure they make notifications and respond to requests for information where this is required under the SSR Act and associated Regulations; or under the Child Safe Standards[[5]](#footnote-6).
6. Consideration will be given to Aboriginal data sovereignty principles and self-determination.
7. The Regulator and the department will ensure, as far as practicable, that information shared is accurate.
8. Information sharing requests will:
	* + identify the specific legislative provision(s) authorising the sharing of the information requested
		+ identify the specific legislative provision(s) containing the functions or powers which require the sharing of the information requested
		+ describe the purpose of the request noting why the information is reasonably required for the identified function or power
9. Where possible, information will be shared in writing.
10. This agreement does not apply to the department in its role as a service provider. Information about the department’s service delivery will be shared with the Regulator in accordance with the Regulator’s requirements of service providers.

# Information sharing

## Routine information sharing

This protocol sets out the information that will be routinely shared by the Regulator and the department as part of their usual business practices. The parties will meet every three months, at a minimum, to discuss relevant regulatory and system oversight matters and share information and updates important to the relationship.

**Addendum 1** sets out what information will be routinely shared between the Regulator and the department.

In agreeing to Addendum 1, the department and the Regulator have considered the relevant information privacy principles and the Human Rights Charter.

The department and the Regulator agree that the information that will be shared under Addendum 1 is reasonably necessary to be shared for the purposes of each party, and that there is no arbitrary or unjustified interference with a person’s right to privacy.

## Information sharing in exceptional/ad hoc circumstances.

Exceptional and ad hoc circumstances may arise where urgent information sharing between the Regulator and the department is required to minimise harm to, and ensure the safety and wellbeing of, service users.

There may also be circumstances where information not included in Addendum 1 is required by either the department or the Regulator to enable it to fulfil its obligations.

Situations may also arise where, to make a policy, program or regulatory decision, or brief Ministers and senior departmental executives, the Regulator or the department may require access to information not listed in this document.

Where these circumstances arise:

* the Regulator and the department will decide whether to share information in line with the information sharing principles outlined in section 4 of this protocol
* the Regulator and the department will ensure that they only share information that is necessary to respond to, or resolve, the situation
* information shared under these circumstances will have the personal information of service users removed to the extent possible, consistent with the purpose for sharing the information
* shared information obtained under these circumstances will only be used for the purpose of responding to, or resolving, the stated situation. However, themes arising from these matters may be shared to improve risk, safety and support learnings for policy and practice, as relevant.

## What information would not normally be shared?

Information would not normally be shared if:

* it falls outside of the scope of the roles of the Regulator and the department
* sharing is not supported by relevant legislation
* sharing the information conflicts with the principles outlined in Section 4 of this protocol
* it is subject to legal professional privilege, unless express written consent is provided.

# Privacy and data protection

The Regulator and the department undertake that any disclosure, use, storage or transfer of information shared under this protocol will only be to the extent permitted by law.

At all times, the Regulator and the department must take reasonable steps to ensure information received under this protocol is protected from misuse, loss, damage or destruction and from unauthorised access, modification or disclosure and in accordance with privacy and data security laws.

# Organisational contacts

The Regulator and the department will establish and maintain organisational contacts to ensure the effective operation of this protocol.

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

The department’s primary contact point for information sharing is Deputy Secretary COPL.

The department’s operational contact point for this protocol is Executive Director Service Agreement and Quality Systems.

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

Any complaints about the operation of this protocol can be made to the department at feedback@dffh.vic.gov.au or to the Social Service Regulator at feedback@ssr.vic.gov.au.

# Dispute resolution

For any disputes arising from this protocol, the Regulator and the department agree to act in a timely manner and in good faith to negotiate a resolution for the dispute, nominating a nominee of the Regulator and the department to make determinations in relation to any matters arising that are in dispute.

Notwithstanding the existence of a dispute, the parties to the dispute will continue to perform any obligations under this protocol.

# Review of protocol

This protocol may be varied at any time by agreement of both the Regulator and the department. Any variations must be in writing and signed by both the Regulator and the department.

The protocol will be formally reviewed within six months of commencement and once a year thereafter. This protocol may be terminated:

* by either the department or the Regulator by providing 30 days’ notice in writing to the other; or
* immediately, where both the department and the Regulator mutually agree in writing to withdraw from this protocol.

# Glossary

In this protocol, the following definitions apply:

**CIMS** is the department’s Client Incident Management System

**Department** means the Department of Families, Fairness and Housing

**In-scope services** are department delivered or department funded services that are in scope for CIMS and are registered or required to be registered (including in the future under the staggered registration process) under the SSR Act

**Regulator** means the Social Services Regulator

**SAMS2** is the department’s Service Agreement Management System

**SSR Act** is the *Social Services Regulation Act 2021* (Vic)

# Addendum: Information to be shared

## Information the department will share with the Regulator

### Incidents and information about funded entities/service providers

| ****What (information will be shared)**** | ****When (will it be shared)**** | ****Why (will it be shared)**** |
| --- | --- | --- |
| Client Incident Management System (CIMS) incident notifications from all in-scope services[[6]](#footnote-7) relating to:* major impact incidents
* serious risk incident type – non-major impact

These categories align with the incidents that registered social service providers must notify the SSR about.  | * Daily – the department will provide the SSR with relevant notifications from registered in-scope services via a daily download of data.
* As organisations are registered, their incident reports will be shared.
 | * The *Social Services Regulation Act 2021* (**SSR Act**) requires social service providers to notify the SSR of serious incidents that occur, or that may pose a serious risk to service users, during the delivery of a social service.
* Sharing this information enables service providers to meet the legal requirements with a single notification and without the service providers having to separately share this information with the SSR.
* To reduce regulatory burden for service providers.
 |
| Funded entity/service provider details, including legal trading name, head of entity and employee details (key contacts). | * Available to the SSR at all times through access to the department’s Services Agreement Monitoring System (**SAMS2**).
 | * To enable the Regulator to validate the information needed for registration under the SSR Act, to support the Regulator to make a decision regarding a provider’s registration.
* To reduce regulatory burden for service providers and the SSR.
 |
| Funding and contract arrangements for funded service providers that are within the remit of the SSR, including * funding of new agencies
* what services agencies are funded to deliver
* changes to funding amounts (increase or decrease)
* changes to funding activities within the remit of the SSR.
 | * Available to the SSR at all times through access to the department’s SAMS2.
 | * To enable the Regulator to:
	+ assess if funded service providers are registered to deliver the services they are providing
	+ consider applications for provisional registration in urgent situations
	+ verify that registered service providers are meeting their obligation to provide timely information to the Regulator about changes in the volume and types of services providers.
* To reduce regulatory burden for service providers and the department.
 |
| Due diligence checklist for new providers. This includes the following, where available to the department:* details of the provider’s current financial position, including assets (property/deeds), income and liabilities via (as applicable)
* financial reports (balance sheets and profit and loss statements) for the previous two financial years
* analysis (preferably by an independent third party) regarding the financial operations/projections over the forthcoming 12 months or more.
 | The department will provide this checklist in response to the Regulator notifying the department that it has received a registration application, and the unregistered provider is funded by the department for the first time to provide services within the remit of the SSR.This does not include any providers already funded by the department *before* that provider is due to be registered under the staggered registration process. | * To enable the Regulator to make an informed assessment about whether the service providers have the financial capacity to provide the social services(s).
* To support the Regulator to make an informed assessment about whether the service providers have suitable arrangements in place to provide the social service(s).
* To reduce regulatory burden for service providers.
 |
| Contact and performance management information about service providers, including: * performance audit reports
* funded organisations that are subject to additional Service Agreement monitoring
 | The department to provide **if** the performance audit or additional service agreement monitoring results from a systemic issue in service delivery that may breach the Social Service Standards. | * To support the Regulator to assess if a service provider is complying with the Social Services Standards, particularly relating to safe service delivery and governance.
* To support the department and the Regulator to work collaboratively to ensure the safe delivery of social services.
* To reduce regulatory burden for service providers.
 |

### Specific to Child Protection

| ****What (information will be shared)**** | ****When (will it be shared)**** | ****Why (will it be shared)**** |
| --- | --- | --- |
| The following child protection information to support the SSR to conduct carer investigations under the Worker and Carer Exclusion Scheme (WCES).* name of carer subject to allegations
* details of carer engagement (dates, agency)
* confirmation of child’s engagement with carer.
 | The Regulator will request this information when it receives a report about a carer’s conduct under the WCES Scheme.  | * To enable the Regulator to determine if conduct is in scope of the WCES scheme, by confirming whether:
	+ an allegation relates to a person who is within the definition of a WCES worker or carer, and
	+ the victim of the conduct is a child in care.
* To support the Regulator in the investigation of conduct that may lead to exclusion under the WCES scheme.
* To support the department and the Regulator to work collaboratively to ensure the safe delivery of social services.
 |

### Specific to Supported Residential Service(s) (SRS)

| ****What (information will be shared)**** | ****When (will it be shared)**** | ****Why (will it be shared)**** |
| --- | --- | --- |
| Notice of the unexpected closure of an SRS | The department to notify the Regulator if it receives indication from an SRS that it is likely to close. | * To support the Regulator to assess if an SRS is complying with the Social Services Standards, particularly in relation to safe service delivery.
* To support the Regulator to assess if an SRS has provided proper notice to vacate to an SRS resident.
* To support the department and the Regulator to work collaboratively to ensure the safe delivery of social services.
 |
| A notice to vacate given to SRS resident by an SRS provider and required to be shared with the Secretary under s259 of the SSR Act. | When the department receives a notice to vacate under section 259(2) of the SSR Act. | * To enable the Regulator to assess if an SRS has provided proper notice to vacate to an SRS resident.
* To support the Regulator to assess if an SRS has met the Social Service Standards, particularly in relation to safe service delivery.
* To support the department and the Regulator to work collaboratively to ensure the safe delivery of social services.
 |
| Details of Regulator requested assessments of SRS resident health and personal support needs, including:* progress updates
* assessment outcomes
 | When:* the SSR makes a notification to the department that a resident of a supported residential service appears to be in need of health care, personal support or other care that the supported residential service is unable to provide; and
* the Secretary makes an assessment of how the resident’s needs may be best met.
 | * To support the Regulator to assess if an SRS has met the Social Service Standards, particularly in relation to safe service delivery and service user agency and dignity.
* To support the Regulator to assess if an SRS has provided proper notice to an SRS resident when issuing a notice to vacate when a resident requires more personal support or health care than available.
* To support the department and the Regulator to work collaboratively to ensure the safe delivery of social services.
 |

## Information that the Regulator will share with the department.

As stated in the Information Sharing Protocol, these arrangements do not apply when the department is the service provider.

| ****What information will be shared**** | ****When****  | ****For what purpose**** |
| --- | --- | --- |
| Any conditions that the SSR places on a registration of an in-scope social service provider or an SRS. | When the Regulator imposes a condition on the registration of a service provider.  | * To support the department to make decisions about:
	+ service provider funding arrangements; and
	+ placement of clients where relevant.
* To support the department to consider alternative agencies to deliver service in the event of a condition preventing an agency from delivering a funded service.
* To support the department and the Regulator to work collaboratively to ensure the safe delivery of social services.
 |
| Details of the variation or removal of conditions on a registration of an in-scope social service provider or an SRS | When the Regulator varies or revokes a condition on a service provider. | To support the department to make decisions about:* service provider funding arrangements; and
* placement of clients where relevant.
 |
| Exemption of an in-scope social service provider or an SRS from any requirement of registration. | When the Regulator provides written notice of an exemption from a requirement of registration to an applicant  | To support the department to make decisions about service provider funding arrangements. |
| Application by a registered in-scope service provider or an SRS for cancellation of its registration.Decision by the Regulator to cancel registration of a registered in-scope social service provider or an SRS. Winding up of any registered in-scope social service provider or an SRS. | When the Regulator:* receives an application for cancellation of registration of the social service provider
* makes a decision on application for cancellation of registration
* receives a notice of winding up a registered social service provider
* Receives credible indication that an in-scope service provider or SRS is likely to close (prior to a formal application being received)
 | * To support the department in making decisions about service provider funding arrangements
* To support the department to make alternative arrangements for safe service delivery.
* To support the department to assist in finding alternative accommodation for SRS residents.
 |
| Enforcement actions against an in-scope provider including:* Improvement notice
* Prohibition notice
* Infringement notice
* Enforceable undertaking
 | Within a reasonable time after the Regulator issues a notice or undertaking to a service provider or an SRS.  | * To support the department to monitor compliance with the terms and conditions of the Common Service Agreement (CSA).
* To support the department in its role assisting services to deliver safe and quality services.
 |
| Significant enforcement actions against an in-scope provider or a supported residential service including:* Public warning notice
* Suspension of intake notice
* Prosecutions
 | **Before issuing enforcement action, unless doing so would create a substantial risk:*** **to a service user; or**
* **that the enforcement action would not be effective.**
 | * To support the department to make alternative arrangements for safe service delivery.
* To support the department to monitor compliance with the terms and conditions of the service agreement.
* To support the department to make decisions about service funding arrangements and to perform its system steward role.
 |
| Suspension or revocation of registration of an in-scope service provider or an SRS. | **Before suspending or revoking registration, unless doing so would create a substantial risk:*** **to a service user; or**
* **that the enforcement action would not be effective.**
 | * To support the department to make decisions about service funding arrangements, managing contracts and in performing its system steward role.
* To support the department to make alternative arrangements for safe service delivery.
 |
| Appointment of an administrator to an in-scope service provider or to an SRS. | **When the Regulator gives written notice to the provider of its intention to appoint an administrator.**  | To support the department to make alternative arrangements for safe service delivery in the event an administrator is appointed for an SRS or a social service provider. |

### Specific to Supported Residential Services

| ****What information will be shared**** | ****When****  | ****For what purpose**** |
| --- | --- | --- |
| A notification from an SRS provider to the Regulator:* of a resident’s health care needs of a resident’s personal support needs
 | **When a service provider notifies the Regulator that the SSR was unsuccessful in securing appropriate health care for a SRS resident.**  | * **To enable the Regulator to provide this information to the Secretary of the department as per SSR Act requirements.**
* **To support the department to meet obligations to assess the SRS resident’s needs.**
 |

To receive this document in another format, email the Social Services Regulator enquiries@ssr.vic.gov.au

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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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Available at [Vic.gov.au – SSR – Agreements with Department of Families, Fairness and Housing](https://www.vic.gov.au/agreements-dffh-and-social-services-regulator) https://www.vic.gov.au/agreements-dffh-and-social-services-regulator and [DFFH – Agreements with the Social Services Regulator](https://www.dffh.vic.gov.au/publications/agreements-social-services-regulator) https://www.dffh.vic.gov.au/publications/agreements-social-services-regulator

1. SSR Act, s191 [↑](#footnote-ref-2)
2. SSR Act, s1. [↑](#footnote-ref-3)
3. SSR Act, s16 [↑](#footnote-ref-4)
4. SSR Act s7 [↑](#footnote-ref-5)
5. Under the *Child Wellbeing and Safety Act 2005*, Part 6. [↑](#footnote-ref-6)
6. In-scope services are department delivered or department funded services that are in scope for CIMS and are registered or required to be registered (including in the future under the staggered registration process) under the SSR Act. [↑](#footnote-ref-7)