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| Service agreement information kit  for organisations funded by the Department of Health and Human Services, the Department of Education and Training Adult, Community and Further Education, and Department of Justice and Regulation |
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Department of Health

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| To receive this publication in an accessible format email [sacomms@dhhs.vic.gov.au](mailto:sacomms@dhhs.vic.gov.au)  Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.  © State of Victoria, Department of Health and Human Services May 2018  ISBN 978-1-76069-084-7  Available at <https://fac.dhhs.vic.gov.au/service-agreement-information-kit> |

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## Revision history

| Version | Amended section | Effective | Details |
| --- | --- | --- | --- |
| 1.0 | Conversion from internet | 01 October 2017 | Initial Microsoft Word version |
| 1.1 | Throughout the document | 23 October 2017 | Links and information updated to ensure accuracy |
| 1.2 | Throughout the document | 5 March 2018 | Some policy updates |

# [Skip to content](http://www.dhs.vic.gov.au/facs/bdb/fmu/service-agreement/1.introduction/chapter-1.-introduction?SQ_DESIGN_NAME=print&SQ_VIEW_NAME=all#content)Chapter 1. Introduction

The Service agreement information kit (the kit) provides information for organisations who hold a Service agreement with the Department of Health and Human Services (DHHS), the Department of Education and Training (DET), the Adult, Community and Further Education Board (ACFE), and the Department of Justice and Regulation (DJR). When referring to department, all departments are implied unless otherwise stated.

Organisations can provide feedback regarding the kit to [Service agreement policy](mailto:SAPolicy@dhhs.vic.gov.au) <SAPolicy@dhhs.vic.gov.au>

## 1.1 About the Service agreement information kit for funded organisations

The kit is an applicable departmental policy as listed in the Service agreement 'Schedule 1 Applicable Departmental Policies'.

The kit is designed to provide organisations funded by the departments with information about the Service agreement clauses and the applicable departmental policies.

The Service agreement, a form of the Victorian Common Funding Agreement, sets out the key obligations, objectives, rights, and responsibilities of the organisation delivering services and the department providing funding to the organisation.

The terms and conditions of the Service agreement are developed with sector representatives through the Service agreement working group, a sub-group of the Human Services and Health Partnership Implementation Committee (HSHPIC).

### Disclaimer

The information in the kit is for general guidance only. References to contractual or legislative obligations are descriptive only. An organisation’s Service agreement with Department of Health and Human Services, and applicable laws or legislation, take precedence over this document. The kit does not constitute, and must not be relied on, as legal or professional advice. Organisations should always obtain specific legal or professional advice tailored to their individual circumstances as needed. No liability is accepted by the department for any loss, damage, cost or expense incurred as a result of reliance on the kit, or any documents attached or linked to the kit.

### Updates to the Service agreement information kit for funded organisations

The kit is updated as required. It is recommended that organisations refer to the kit via the internet, to ensure they are accessing up to date information.

## 1.2 Overview of the departments

### Department of Health and Human Services

Department of Health and Human Services was established on 1 January 2015 and signals a new approach to developing social and economic policy and improving the wellbeing of Victorians.

The department, in consultation with communities, clients and service partners develops and delivers policies, programs and services that support and enhance the wellbeing of all Victorians. The department supports the portfolios of:

* The Hon. Jill Hennessy, Minister for Health, and Minister for Ambulance Services
* Martin Foley, Minister for Housing, Disability and Ageing, Minister for Mental Health
* Jenny Mikakos, Minister for Families and Children, and Minister for Youth Affairs
* The Hon. John Eren, Minister for Sport.

### Department of Education and Training

Department of Education and Training supports and provides a range of learning and development opportunities for Victorian children, young people and adults.

The department supports Victorians to reach their potential, regardless of their background, postcode or circumstance, and to develop the knowledge, skills and attributes they need to participate and thrive in a complex economy and society.

#### Ministerial portfolios

The department supports the portfolios of:

* The Hon. James Merlino, Minister for Education
* The Hon. Gayle Tierney, Minister for Training and Skills (international Education)
* The Hon. Jenny Mikakos, Minister for Families and Children, and Minister for Early Childhood Education.

#### For further information

For further information about Department of Education and Training, refer to the [Department of Education and Training](http://www.education.vic.gov.au/about/department/Pages/default.aspx) website <http://www.education.vic.gov.au/about/department/Pages/default.aspx> (external link, opens in a new window).

## 1.3 Policy and funding plans and guidelines

### Department of Health and Human Services

The *Department of Health and Human Services Policy and funding guidelines 2017-18* (the guidelines) is an applicable departmental policy, in Schedule 1 of the Service agreement.

The guidelines replace the former Department of Health’s annual Victorian Health Policy and funding guidelines and the former Department of Human Services’ Policy and funding plan.

The guidelines consist of three volumes:

* Volume 1: Department of Health and Human Services Policy and funding guidelines departmental overview
* Volume 2: Health Operations 2017-18 (former Department of Health Victorian Health Policy and funding guidelines)
* Volume 3: Human Services Policy and funding plan 2015–19, update 2017-18.

To access the Human Services Policy and funding plan 2015–19 Volume 3 (including Volume 1: Department of Health and Human Services Departmental overview) refer to the [Human Services Policy and funding plan 2015–19 (Volume 3)](https://dhhs.vic.gov.au/policy-and-funding-guidelines) <https://dhhs.vic.gov.au/policy-and-funding-guidelines> (external link, opens in a new window).

### Department of Education and Training

[The Department of Education and Training’s Early Childhood Programs and services guide 2015](http://www.education.vic.gov.au/childhood/providers/funding/Pages/devgroupprogguide.aspx) <http://www.education.vic.gov.au/childhood/providers/funding/Pages/devgroupprogguide.aspx> (external link, opens in a new window) (the guide) provides an overview of key programs and services and outlines service activities, performance measures, data collection requirements, service standards and guidelines. It is designed to assist organisations funded by the department.

The guide is reviewed annually or as information changes and updates are required.

## 1.4 Funded agency channel

The [Funded agency channel (FAC)](https://fac.dhhs.vic.gov.au/) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window) is a website that supports the partnership relationship between the Department of Health and Human Services, the Department of Education and Training and approximately 3,000 organisations which they fund.

My Agency is the secure area of the FAC website and is only accessible to registered users. It provides quick and easy access to Service agreements, supporting information and business processes that enable organisations and the departments to deliver on partnership initiatives.

FAC provides funded organisations and departments with access to:

* an organisation's Service agreement, payment schedule, invoices and the progress of variations to funding
* an organisation's Service agreement information, including service and funding information, for the current, future and previous financial years
* complete compliance and service delivery tracking requirements online
* performance reports for funded activities
* department policies, standards and guidelines and relevant legislation
* department and broader news that organisations may be interested in
* a range of business, government and human services websites.

### Registering for My Agency

Department of Education and Training staff and funded organisation staff must register to access the secure individual organisation information available via My Agency.

Further information, including downloadable information sheets to assist Department of Education and Training and funded organisation users to register for My Agency is available on the [FAC website](https://fac.dhhs.vic.gov.au/my-agency) <https://fac.dhhs.vic.gov.au/my-agency> (external link, opens in a new window).

Department of Health and Human Services staff are not required to register for My Agency as they are automatically granted access as a part of the internal suite of applications issued for use when working with funded organisations.

### User feedback and queries

Feedback, suggestions and queries about FAC or My Agency can be provided by email to [sacomms@dhhs.vic.gov.au](mailto:sacomms@dhhs.vic.gov.au) or by telephoning the FAC Help Desk on 1300 799 470 (toll free): Select support option 1, then select option 5.

## 1.5 Partnering with the community sector

Organisations and the departments share a vision to improve the outcomes for people in Victoria and seek to work together in reaching this objective.

The Memorandum of understanding between non-government health, housing and community services sector and the Department of Health and Human Services(2012-2015) outlines the shared commitment between the department and funded organisations to work together to make a positive difference for people in Victoria.

The Department of Education and Training also has a [Partnership agreement between the Department of Education and Training and the Victorian community sector (2014-2018)](http://www.education.vic.gov.au/Documents/about/programs/partnerships/partnershipagreement.pdf) <http://www.education.vic.gov.au/Documents/about/programs/partnerships/partnershipagreement.pdf> (external link, opens in a new window).

These documents reiterate the importance of the strength of the relationship between the departments and funded organisations to ensure effective public policy and best service outcomes for all Victorians. They also acknowledge that organisations are sovereign entities (independent and autonomous) that are ultimately responsible for their own performance.

### Partnering resources

Partnering information can be found on the [Victorian Council of Social service's website](http://vcoss.org.au/strong-sector/partnerships-decd/) <http://vcoss.org.au/strong-sector/partnerships-decd/> (external link, opens in a new window).

## 1.6 Human Services and Health partnership implementation committee

### 1.6.1 Purpose

The purpose of the committee is to promote consultation and engagement between the department and the funded sector.

### 1.6.2 Background

The [Human Services and Health Partnership Implementation Committee (HSHPIC](https://providers.dhhs.vic.gov.au/human-services-and-health-partnership-implementation-committee)) <https://providers.dhhs.vic.gov.au/human-services-and-health-partnership-implementation-committee> (external link, opens in a new window) was established in 2004 to guide and implement the commitments of the Partnership agreement. The purpose of the committee is to promote consultation and engagement between the department and funded community sector organisations. HSHPIC is co-chaired by the department and VCOSS.

HSHPIC works to promote and support collaboration and partnering between the Department of Health and Human Services and the funded community sector to make a positive difference to our shared clients.

The work of HSHPIC focuses on:

* strengthening the department and community sector partnering to achieve effective and respectful relationships
* auspicing projects that improve business processes to reduce the regulatory burden on the community sector
* addressing strategic challenges facing the human services industry through partnering dialogues and shared action.

## 1.7 Service agreement working group Terms of reference

### Background

The Service agreement working group (SAWG) is a sub-group of HSHPIC. SAWG aims to support the effective and consistent management of Service agreements across the Department of Health and Human Services and the Department of Education and Training.

SAWG was established as the key consultation body for the review of the Terms and conditions of the Service agreement. The working group seeks sector and departmental feedback and considers recommendations on the Service agreement.

### Role

SAWG will:

* represent the sector and the department’s views and advocate to ensure the effective operation of the Service agreement
* ensure that stakeholders can easily understand the requirements of their Service agreement
* be used to consult stakeholders on Service agreement policy documents
* provide ongoing advice on approaches to improve the management of the Service agreement
* consider matters relating to the National Disability Insurance Scheme.

Members are encouraged, where relevant, to distribute documents and consult with their networks on work undertaken by SAWG.

### Membership

The membership of SAWG includes peak bodies, organisations funded by Department of Health and Human Services and the Department of Education and Training and departmental representatives.

### Chair

SAWG is chaired by the Director, Operational Performance and Quality Branch, Department of Health and Human Services.

### Working group meeting design and frequency

SAWG meetings are held bi-monthly and are guided by the group’s work plan. Sub-groups may be formed to focus on specific issues. These groups will report their findings back to SAWG.

### Reporting

The Chair of SAWG will provide regular reports to HSHPIC on recommendations made by SAWG.

### Term of working group

The term of SAWG is for the duration of the 2015–2019 Service agreement business cycle.

The Terms of reference and membership of SAWG will be reviewed annually at the start of each year, or as required.

### Secretariat

The Operational Performance and Quality Branch at Department of Health and Human Services will provide secretariat services. The agenda and papers will be distributed in a timely manner for these meetings.

## 1.8 Whole of Victorian Government Common Funding Agreement

From 1 January 2013, the Whole of [Victorian Government Common Funding Agreement (CFA)](https://providers.dhhs.vic.gov.au/victorian-common-funding-agreement) <https://providers.dhhs.vic.gov.au/victorian-common-funding-agreement> (external link, opens in a new window) became available for use by Victorian Government departments. In acknowledgement that some organisations may be funded by more than one government department, the CFA aims to reduce the administrative burden on organisations by standardising funding arrangements across government.

### What changes will be made to the department’s Service agreement to align with the CFA?

Changes to Service agreement terms and conditions

As the Service agreement used by Department of Health and Human Services and the Early childhood area of Department of Education and Training (the departments) was negotiated and agreed with organisations for the 2015–2019 period, considerable work has been undertaken to minimise change for organisations.

The CFA terms and conditions have been closely modelled on the clauses of the Service agreement. The CFA and Service agreement are consistent with their order and grouping of terms and conditions, and the use of plain language.

Minimal changes are required to align the Service agreement clauses with the CFA terms and conditions.

The most notable changes are in clause 4:

(a) clauses 4.15 and 4.16 have been added to clarify the obligations of the department and organisations in respect of GST and the issue of tax invoices and adjustment notes, and are consistent with GST legislation

(b) clause 4.17 replaces clause 8.6. Clause 4.17 requires organisations to acknowledge the funding support provided by the Victorian Government as specified in any applicable departmental policy and in any Schedule to the Service agreement. This means that in publications and all publicity related to the services funded by the Victorian Government, as well as in an organisation’s annual report, the organisation will be expected to acknowledge the funding support provided by the Victorian Government in accordance with these requirements. Further information on this clause is available in [Chapter 3.4.4](#_3.4.4_Acknowledgement_and).

### What are the key differences between the Service agreement terms and conditions and the standard Common Funding Agreement?

The CFA has a set of core Terms and conditions used by all by Victorian Government departments. The departments can add or substitute additional clauses from an approved list where there are specific funding requirements.

The Service agreement contains additional and substituted clauses from the approved list of clauses. These clauses have been integrated with the standard CFA terms and conditions to ensure readability and minimise the changes required to the existing 2012-2015 Service agreement.

The clauses added to or substituted in the Service agreement from the approved CFA list are detailed in the table shown on page 20. These clauses are explained in Chapter 3 of the kit.

#### Table 1 List of clauses added to or substituted in the Service agreement from the approved CFA list

| Clauses | Key additional clauses in Service agreement from CFA list | Key substituted clauses in Service agreement from CFA list |
| --- | --- | --- |
| Clauses apply to all DHHS and DET Service agreements | Clause 1.1 - Definitions including:   * Service agreement information kit (additional definition) * Services (additional definition)   Clauses 3.3, 3.4, and 3.5 - Continuity of services  Clause 5.1(c) – Conflict of Interest Clause 6.6, 6.7, 6.8 and 6.9 – Record keeping Clause 7.8 and 7.9 - Assets Clause 8.5 - Reporting Clause 20.2(c) – Risk Management | Clause 1.1 - Definitions including:   * Insolvency event * Subcontracting   Clause 1.3 - Priority of Documents Clause 3.1(b) – Quality of services Clauses 4.3 and 4.9 – Funding Clause 6.2, 6.3, 6.4(a) – Record keeping Clause 12 – Suspension Clause 13 – Cessation Clause 14.3(e) – Termination Clause 15 – Transition of Services |
| Clauses that apply to DHHS Service agreement only | Clause 1.1 Definitions including: - Standards (additional definition) - Independent Review Body (additional definition)  Clause 3.6 – 3.11 Compliance with Standards | Clause 14.4 – Termination Clause 26.1 – Survival |
| Clauses that apply to DET Service agreement only | Clause 1.1 Definitions including:   * Approved Application (additional definition) * Certificate of Expenditure (additional definition) * Early Childhood Facilities Grant (additional definition) * Project (additional definition)   Clause 27 – Early Childhood Facilities Grant |  |

The Service agreement also refers to ‘Services’ rather than ‘Activity’ which is used in the CFA. There are also some other minor differences, including in references to the schedules of the agreement.

**For further information**

Email: [SApolicy@dhhs.vic.gov.au](mailto:SApolicy@dhhs.vic.gov.au)

# Chapter 2. Service agreements

## 2.1 Role of Service agreements

Approximately $2.9 billion of the Department of Health and Human Services budget and approximately $300 million of the Department of Education and Training budget is used to fund organisations to deliver services to individuals and community groups in Victoria. This is facilitated via approximately 3,000 Service agreements.

The departments operate on a 4-year Service agreement business cycle except for services funded under the *Disability Act 2006 (Vic)* which have a limit of three years for contracts. The current Service agreement cycle commenced on 1 July 2015 and ends on 30 June 2019. Further information on the duration of the Service agreement is provided in [Chapter 3.2.](#_3.2_Term_of)

The Service agreement sets out the key obligations, objectives, rights and responsibilities of the organisation delivering services and the department providing funding to the organisation.

Since 18 March 2013, the departments’ Service agreements have been aligned to the Victorian Common Funding Agreement. Further information on the Service agreement's alignment with the Common Funding Agreement can be found in [Chapter 1.8.](#_1.8_Whole_of)

Similar to the Service agreement, Statements of priorities are the key accountability agreements between health services and the Minister for Health. The Service agreement information kit for funded organisations only details the Terms and conditions of the Service agreement and does not include Health Services’ Statements of priorities.

## 2.2 Service agreement document and structure

An organisation funded by Department Health and Human Services and Department Education and Training will have a separate Service agreement for each funding department.

Organisations receiving both disability and other program funding from Department Health and Human Services will have the funding managed in separate Service agreements, because of the three year limitation to contract periods.

Authorised persons can view the Service agreement with each department through the Service agreement module on the [Funded agency channel](https://fac.dhhs.vic.gov.au/) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window).

Sample Service agreements are available from the Funded agency channel.

### Service agreement structure

The Service agreement document consists of the following sections:

#### Signatories

This section contains the signature clauses for authorised persons to sign for the department and the organisation. Where there are multiple organisations that will provide the services (e.g. a non-incorporated consortium), this section may require signature from multiple persons authorised to sign the Service agreement for the relevant organisations.

#### Background

This section contains a brief background to the Service agreement and describes reasons for the organisation and the department entering into the Service agreement.

A partnering approach taken to working together in good faith to achieve objectives in a way that is consistent (as applicable):

* for organisations working with Department Health and Human Services, the Partnership in practice memorandum of understanding 2012-15 between the non-government health, housing and community services sector, the Department of Human Services and the Department of Health. Under this Memorandum of understanding, the sector is represented by the Victorian Council of Social Service.
* for organisations working with Department Education and Training, the [Partnership agreement between the Department of Education and Training and the Victorian Community Sector 2014-2018](http://www.education.vic.gov.au/Documents/about/programs/partnerships/partnershipagreement.pdf) <http://www.education.vic.gov.au/Documents/about/programs/partnerships/partnershipagreement.pdf>
* for organisations that are Councils within the meaning of the Local Government Act 1989 (Vic), the Victorian State Local Government Agreement.

The Background also includes the Victorian Government's commitment to the transition to the full scheme of the National Disability Insurance Scheme (NDIS).

#### Details

This section contains core Service agreement details: the organisation's legal name, the department's name, the agreement's start and end dates and the primary contact details of each party.

#### Terms and conditions

This section contains the standard Terms and conditions of the Service agreement. These conditions are described in detail in [Chapter 3](#_Chapter_3._Terms) of this kit.

#### Schedule 1

This Schedule provides a list of applicable departmental policies related to the delivery of services by the organisation.

Schedule 1 lists the applicable departmental policies contained in [Chapter 4](#_Chapter_4._Department) (Department Health and Human Services) and [Chapter 5](#_Chapter_5._Department) (Department Education and Training) of the Service agreement information kit. Some of these policies are overarching and apply to every organisation with a Service agreement. Other policies in Chapters 4 and 5 of the Service agreement information kit only apply in certain circumstances. Each policy listed in Chapters 4 and 5 contains information at the beginning of the policy outlining the circumstances where the policy applies.

Schedule 1 also contains a list of key documents. These are service/program specific applicable departmental policies that apply to services being funded in the Service agreement.

#### Schedule 2

Schedule 2 includes:

* a funding summary and Service agreement level payment schedule
* data collection requirements (for performance reporting and other data reporting)
* service plan details, including:
  + - * services to be provided by the organisation
      * funding to be paid by the department for the services
      * service performance measures and targets
      * delivery catchments information if applicable
      * any additional requirements related to the specific service plan or activity.

Detailed activity descriptions for the services being funded are provided in the relevant department's [Policy and funding guidelines](https://www.dhhs.vic.gov.au/policy-and-funding-guidelines) <https://www.dhhs.vic.gov.au/policy-and-funding-guidelines> (external link, opens in a new window).

Organisations can also view future year projected funding amounts for most funded activities via the Service agreement Module in [My Agency](https://fac.dhhs.vic.gov.au/my-agency) <https://fac.dhhs.vic.gov.au/my-agency> (external link, opens in a new window).

#### Schedule 3

This optional schedule enables the relevant department and organisation to:

* record any special conditions agreed between the department and the organisation
* record agreed actions that the organisation and the department will take under the Service agreement overall (not to specific service plans).

## 2.3 Entering into a new Service agreement

An organisation usually only has one Service agreement with a specific department at any point in time. The exceptions to this are where:

* the organisation is funded by the Department of Health and Human Services through separate Service agreements for provision of disability and other services.
* an organisation also enters into an agreement as a member of a consortium
* the department has approved multiple agreements with groups/divisions and/or regions because the organisation is a state-wide organisation or operates in multiple areas across the state, and has presented a convincing business case to the department.

The department when entering into a new Service agreement with an organisation requires the documentation and information, listed below.

### Organisational contact details and legal status

Before a department can enter into a new Service agreement and fund an organisation, it must ensure that the organisation is a legal entity established under either an Act of Parliament or other relevant legislative framework.

Organisations are required to maintain their legal status, and advise the department within five business days should their status change.

An organisation's legal status may be governed by one of the following Acts of Parliament:

* *Associations Incorporation Reform Act 2012 (Vic)*:This Act replaced the Associations Incorporation Act 1981 (Vic) from 26 November 2012. The Act enables not-for-profit organisations to incorporate with minimal cost. This type of incorporation is suited to organisations that are not for profit organisations. In Victoria, Consumer Affairs Victoria administers this Act. Similar legislation applies in other states. Further information about incorporation can be found at [Consumer Affairs Victoria](http://www.consumer.vic.gov.au/clubs-and-not-for-profits/incorporated-associations) <<http://www.consumer.vic.gov.au/clubs-and-not-for-profits/incorporated-associations>> (external link, open in a new window) or from [Justice Connect](https://www.nfplaw.org.au/incorporationdecision) <https://www.nfplaw.org.au/incorporationdecision> (external link, open in a new window).
* *Co-operatives Act 1996 (Vic)*: A co-operative is a democratic organisation, owned and controlled by its members for a common benefit. Co-operatives are administered under the Co-operatives National Law, applied in Victoria by the Co-operatives National Law Application Act 2013. This is managed by Consumer Affairs Victoria, see <https://www.consumer.vic.gov.au/licensing-and-registration/co-operatives> <https://www.consumer.vic.gov.au/licensing-and-registration/co-operatives> (external link, opens in a new window).
* *Corporations Act 2001 (Cth):*This national Act enables public or private companies to incorporate. They are normally created for profit. A charity or other not for profit organisation can also incorporate under this Act as a company limited by guarantee. A company limited by guarantee has no share capital, as no profit sharing is contemplated. The Act imposes certain filing and other obligations on these companies, including the lodgement of annual directors' reports and annual audited financial reports to the Australian Securities and Investments Commission.
* *Health Services Act 1988*: This Act relates to organisations that provide health services within Victoria. It outlines standards and requirements that must be met by organisations covered under this Act. Examples of organisations in this category are public hospitals, private or denominational hospitals, and community health centres.
* *Individual Acts of Parliament*: Organisations can be created by individual Acts of Parliament. These organisations are governed by their own legislation and in some cases are subject to other legislation such as the Public Administration Act 2004 (Vic) and the Financial Management Act 1994 (Vic).
* *Local Government Act 1989 (Vic):* The department can enter into a Service agreement with a council constituted under the Local Government Act. This includes city councils, rural city councils or shire councils.
* *Trustee Act 1958 (Vic)*: This Act governs the use and creation of trusts. A trust is a legal structure in which one or more legal persons (the trustee) may, for example, holds the legal title to property, shares or money on behalf of another person or persons.

In some circumstances, the department may also fund individuals (known legally as a 'natural person'). In essence, they must be a person at least 18 years of age, must have the mental capacity to understand the Service agreement, must not be under any court order and must not be bankrupt.

Copies of documentation demonstrating an organisation’s legal registration can be required by the department, typically this would be in the form of an incorporation certificate or company registration certificate. For natural person arrangements, we require copy of driver’s licence or passport details, and confirmation of the service address.

Organisations will also be asked to complete a form listing the organisation contact and taxation details, which includes provision of their Australian Business Number (ABN).

### Details for the electronic transfer of payments

Payments to the organisation will only be made to a registered financial institution. When entering a new Service agreement, organisations are required to fill in the form *Details for the Electronic Transfer of Payments* and to attach a cancelled deposit slip for the account or have the financial institution validate (stamp) the completed attachment.

### eBusiness agreement

Organisations must be registered with the Victorian Government eBusiness system to be able to authorise staff to register and access their organisation’s funding and payment details, data collection requirements and service standards and guidelines through the Service agreement Module (SAM) under the secure My Agency area within Funded agency channel.

Where organisations are not registered with eBusiness, the details in the *eBusiness Access Agreement for Organisations* need to be filled out and the agreement signed. The agreement has provision to nominate an Organisational Authority. Once eBusiness approves the application for access, it will provide the organisation’s nominated person with an individual username and password along with guidelines and instructions on how to register themselves as a user on eBusiness.

### Copies of financial statements/annual reports

Organisations that do not have a current Service agreement with any of the departments would normally be asked to provide their financial statements or annual reports. Finance staff from the department use this information to analyse the financial position and sustainability of the organisation, prior to authorising funding and entering into the Service agreement.

### Conflict of interest

When entering into a new Service agreement, an organisation is required to confirm that it has no actual or potential conflict of interest and that no actual or potential conflict of interest is likely to arise during the term of the Service agreement. These requirements are described further in [Chapter 3.5](#_3.5_Conflict_of).

## 2.4 Service agreements with more than one organisation

The departments may enter into a Service agreement with non-incorporated alliances or consortia.

The department encourages alliances and cooperation between organisations, particularly where these arrangements maximise service delivery effectiveness, quality and benefits to the community.

Primary Care Partnerships provide a good example of the successes achieved through organisations working together. Primary Care Partnerships are a core component of the primary health care and broader human services sector platform for integrated care and health promotion. PCPs have enabled coordination of planning and care pathways for many population groups at risk of poor health, including refugee and Indigenous groups, people facing difficulty due to severe drought, and people with chronic and complex conditions to prevent unnecessary use of hospital services.

### Non-incorporated alliance/consortium

A non-incorporated alliance/consortium is made up of a group of separate legal entities, all working together to achieve common goals and deliver specific services. Each member organisation is a separate legal entity at law. The non-incorporated alliance/consortium, however, is not a legal entity in its own right.

All members in the alliance/consortium are listed as parties to the Service agreement. Each member organisation agrees to the terms and conditions of the Service agreement and is individually bound by them. Each member organisation is responsible to the other members and to the department for the actions of the alliance/consortium and service delivery. The governance arrangements between member organisations are determined by the alliance/consortium members.

Secure access to view Service agreement and payment information via the Service agreement Module in [My Agency](https://fac.dhhs.vic.gov.au/my-agency) <https://fac.dhhs.vic.gov.au/my-agency> (external link) can be provided to members of the alliance/consortium as appropriate.

There is no limit to the number of members in a non-incorporated alliance/consortium. One member, however, must be nominated to receive payments on behalf of the alliance/consortium and receive correspondence from the department. Members are to determine arrangements for distribution of funding provided by the department.

The alliance/consortium members must also determine which members will be listed as signatories to the Service agreement. This may be all or some of the overall membership.

Members of non-incorporated consortia that have a Service agreement may be eligible for coverage under department funded Victorian Managed Insurance Authority insurance programs while undertaking consortium related activities. The [Victorian Managed Insurance Authority](http://www.vmia.vic.gov.au/) <http://www.vmia.vic.gov.au/> (external link, opens in a new window) should be contacted to confirm eligibility.

### Incorporated consortium

An incorporated consortium is an arrangement when members of an alliance incorporate to form a new legal entity.

Under this arrangement, the department enters into a direct relationship with the new legal entity and not with each individual member.

### Subcontracting

Subcontracting is where an organisation that has a Service agreement with the department arranges for another service provider to deliver some or all of the services under the Service agreement. Subcontracting of services in the Service agreement is only allowed with written consent from the department. More information about subcontracting is provided in [Chapter 3.10](#_3.10_Assignment_and).

Under subcontracting arrangements, the organisation who is a party to the Service agreement is directly responsible to the department for the delivery of services in the Service agreement. The sub-contractor is accountable to the organisation for the subcontracted services, not directly to the department.

## 2.5 Parties to agreement

Every Service agreement has at least two parties to the Agreement. These are the organisation or organisations delivering the services and the department providing funding. Non-incorporated consortium agreements will have multiple organisation parties, made up of the consortium member organisations.

The Service agreement contains the name and position title of the officers authorised to enter into the Service agreement on behalf of the organisation and funding department. It is important that these details remain up to date.

### Organisation

An officer authorised to enter into the Service agreement (contract) on behalf of the organisation must be listed in the Service agreement. The organisation's incorporation details will often dictate who has authority to sign a Service agreement on behalf of an organisation.

### Department of Health and Human Services

The party to the Department of Health and Human Services' Service agreements is the State of Victoria as represented by the Department of Health and Human Services (ABN 74 410 330 756).

Where the organisation is funded for housing or homelessness related activities, the party to the Service agreement is the Director of Housing. All other activities are the responsibility of the Secretary to the Department of Health and Human Services.

The following roles are authorised to enter into a Service agreement for the delivery of services on behalf of the Ministers, or the Secretary of the Department of Health and Human Services and/or the Director of Housing:

* Deputy Secretaries
* Area Directors
* Executive Directors
* Directors.

### Department of Education and Training

The Secretary to the Department of Education and Training has authorised the following positions to enter into Service agreements. Authorisation is dependent on the value of the Service agreement, or the value of any variation to the Service agreement:

* Deputy Secretary
* Assistant Regional Directors
* Regional Directors
* Assistant General Managers
* General Managers
* Executive Director

## 2.6 Signing of Service agreements

Organisations with an existing funding and service delivery relationship with Department Health and Human Services or Department Education and Training are not required to physically sign their Service agreement.

Organisations are also not required to sign subsequent variations to the Service agreement where there is a change to funding, deliverables or other matters contained in the Service agreement. Organisations will be notified by the department of variations to enable organisations time to consider the change to the Service agreement.

Where an organisation does not have an existing funding and service delivery relationship with the departments, or there has been a break in service delivery (Service agreement periods), a new Service agreement must be established and signed by all parties. The Service agreement Module in [My Agency](https://fac.dhhs.vic.gov.au/my-agency) <https://fac.dhhs.vic.gov.au/my-agency> (external link, opens in a new window) allows for this Service agreement approval to be made online.

Where an organisation prefers to hold/sign a paper copy of their Service agreement or variation, authorised staff can download a Portable Document Format (PDF) version of the contract via the Service agreement Module in [My Agency](https://fac.dhhs.vic.gov.au/my-agency) <https://fac.dhhs.vic.gov.au/my-agency> (external link, opens in a new window).

## 2.7 Management of Service agreements

When entering into a Service agreement, the organisation and the department acknowledge the partnering approach to working together and they commit to acting reasonably and in good faith to achieve objectives under the Service agreement.

When negotiating and managing the Service agreement the department and organisation are to consider the partnership principles, reflected in the applicable **Partnership Agreement or Partnership in Practice Memorandum of Understanding** described within [Chapter 1](#_Chapter_1._Introduction).

### Role of departmental Service agreement contacts

Each organisation is assigned a departmental Service agreement contact who is responsible for overseeing the Service agreement and variation processes for the department.

If the organisation is funded for various service types, the department assigned service plan contacts will also engage with the organisation.

These departmental Service agreement contacts are also responsible for monitoring an organisation's performance and adherence to departmental policy and program guidelines and requirements. They play an important role in building collaborative relationships and advising an organisation on local service planning.

### Calendar of Service agreement events

The calendar of Service agreement events sets out key dates and actions that organisations and department staff should be aware of. This includes:

* when Service agreement variations are processed
* when financial reporting requirements are due
* information on the release of the Victorian budget and publication of policy and funding plans/guidelines
* annual price indexation processing.

In the standard Service agreement business cycle, variations to Service agreements will be processed on a monthly basis, where required, to ensure that organisations receive funding for new or revised services in a timely manner.

|  |  |
| --- | --- |
| Late June | Annual Service agreement transition  Current year funding cannot be changed after the first week of June. A new future year of funding can be viewed on [Funded agency channel](https://fac.dhhs.vic.gov.au) <https://fac.dhhs.vic.gov.au/my-agency> (external link, opens in a new window), where applicable. At the end of each four year business cycle, Agreements with approved future year funding are rolled over for the next four year Agreement cycle. |
| 1 July | Policy and funding guidelines  Policy and funding plans/guidelines published online. |
| July | Annual Price Indexation  Annual Price Indexation applied to eligible activities for the new financial year and future years. Increases are backdated to 1 July and paid on or before the next scheduled payment. No action is required by organisations. Advice of increased funding provided to organisations. |
| First Tuesday of each month | Monthly Payments  Regular monthly payment is made. |
| Second Tuesday of each month | Health services are paid their health related funding on the second Tuesday of the month. |
| **1**st of month | Monthly Variations  Variations Open: Changes that have been negotiated with an organisation are entered into the Service agreement management system. Organisations can view and check changes when finance approval is completed by the department. Variations are not normally made in July or June and a shorter window is available in December due to pay equity indexation processing. |
| **18**th of month | Variations Published: Organisations can view proposed changes on the Funded agency channel website. Email advice sent to department and organisation signatories to undertake final check of changes.  Note: If 18th of the month falls on a weekend, variations will be published on the next business day. |
| **23**rd of month | Variation becomes effective as long as department signatory has approved. Where funding increases are backdated, any applicable funding arrears payments are processed. |
| Early May | State and federal Budget  Release of state and federal budget |
| 30 September  (or other date agreed) | Fire safety certification  Organisations that provide bed based services are required to complete Fire Safety Certification annually by 30 September or at a time agreed by the department. |
| As required (dependant on reporting cycle) | **Annual Service agreement compliance certification**  The Service agreement compliance certification (SACC) contains:   * Financial Accountability Reporting * Risk Management Attestation * Safety screening certification and * Privacy and data protection certification.   The due date for the SACC is three months after the end of an organisation’s reporting period, or seven days after an organisation’s AGM.  Organisations can update their AGM date via the Service agreement module on the Funded agency channel and the due date for their SACC will be automatically updated. |

### Negotiating Service agreements

The department and the organisation are to act reasonably and in good faith when negotiating changes to services and funding under the Service agreement. This includes:

* ensuring that both parties discuss proposed changes to services being delivered, funding under the Service agreement and local service planning
* working collaboratively to ensure service delivery issues are adequately addressed, including looking at the service mix where necessary
* being transparent and open regarding policy and service delivery developments and performance in the delivery of services
* acting to resolve any dispute arising out of the Service agreement in good faith and in a timely manner.

### Changes to applicable departmental policies

Schedule 1 of the Service agreement provides organisations with a list of applicable departmental policies. Some of these are contained with in [Chapter 4](#_Chapter_4._Departmental) of the kit. Program and service specific policies are held on the department’s website and the Funded agency channel.

Whenever applicable departmental policies are updated, the department will provide notification to organisations through an email from the Funded agency channel. The notification will provide a summary of the change and the suggested audience. The notification will also provide a direct link to the changed policy. A similar process is applied for any new policies.

### Meetings between the organisation and the department

To effectively manage Service agreements, the representatives of the organisation and the department need to maintain a strong working relationship which enables open communication.

Annual whole-of-agreement meetings

It is recommended that organisations and the department meet at least once annually to discuss the Service agreement. These meetings should:

* provide organisations and the department with opportunities for discussion and feedback from a whole-of-agreement perspective on the Service agreement, service delivery and performance in meeting client needs
* include the provision of information by the organisation to meet the department’s monitoring requirements
* discussion of Desktop Review outcomes (where applicable)
* provide an opportunity for immediate response or timely follow up of any issues identified in the discussions
* allow for strategic discussions relating to emerging trends, organisational priorities and service developments to support local service planning
* increase the department's understanding of current or anticipated challenges faced by the organisation to meet the requirements of the Service agreement over the coming year
* increase the department's understanding of successes achieved by the organisation
* improve the organisation's knowledge of the priorities of the department and current Victorian Government initiatives
* include discussions on relevant topics determined by the organisation and the department
* be conducted in accordance with partnering principles set out through the department and the organisation's relevant partnership with the community sector [Chapter 1.5](#_1.5_Partnering_with)
* cover content that is not already discussed through other mechanisms.

In general the lead division/group/region for the Service agreement will be responsible for organising the meeting with the organisation and for ensuring relevant information is collected from all other relevant areas for the meeting.

The organisation and the department should appoint representatives that are best able meet the objectives of the meeting and to make decisions as required.

### Other communication

The organisation and the department throughout the Service agreement period should meet or communicate as required regarding the Service agreement requirements and the delivery of services. Requests of either the organisation or the department should be, where possible, responded to in a timely manner. An organisation and the department can agree to meet more regularly throughout the year regarding particular service plans due to the nature of the services being delivered.

### Monitoring of Service agreements

When departmental staff monitor Service agreements they apply the Funded Organisation Performance Monitoring Framework*.* The framework applies risk management principles to monitor organisation service sustainability and quality. It assists the departments in early identification of risks to ensure the ongoing provision of quality services and avoid the consequences of service failure. Further information can be found in [Chapter 4.10](#_4.10_Funded_Organisation).

# Chapter 3. Terms and conditions

### Terms and conditions disclaimer

Information in this chapter is for general guidance only and references to contractual or legislative obligations are descriptive only. The Service agreement and any applicable legislation take precedence over the kit. The kit does not constitute and must not be relied upon as legal or other professional advice. Each organisation should always obtain specific advice tailored to its individual circumstances.

## 3.0 Overview of Service agreement terms and conditions

The Service agreement terms and conditions set out the contractual rights, obligations, and responsibilities of organisations for the delivery of services and provision of funding.

Most of the clauses contained in the Service agreement are common for both Department Health and Human Services and Department Education and Training. Where a clause is not common across all Service agreements it is identified below and summarised later in the chapter.

The following clauses are specific to both Department Health and Human Services:

* Clause 1.1 Definition of Independent Review Body
* Clause 3.1A Service Delivery - Quality of Service Delivery  
  (where clause 3.1A provides that the term 'registration' includes registration under the *Children, youth and Families Act 2005 (Vic)* and the *Disability Act 2006 (Vic)*)
* Clause 3.6 Service Delivery - Compliance with Standards
* Clause 14.4 Termination of Agreement (where clause 14.4 has an additional essential term 3.6 [Compliance with Standards]).
* The following clauses are specific to Department Education and Training:
* Clause 1.1 Definition of Approved Application
* Clause 1.1 Definition of Certification of Expenditure
* Clause 1.1 Definition of Early Childhood Facilities Grant
* Clause 1.1 Definition of Project
* Clause 3.1A Service Delivery - Quality of Service Delivery   
  (where clause 3.1A provides that the term 'registration' includes approval under the *Educational and Care Services National Law Act 2010 (Vic)*)
* Clause 27 Early Childhood Facilities Grant.

### 3.0.1 Terms and conditions of the Service agreement

The current Service agreement terms and conditions were updated and take effect from 11 December 2015. The Service agreement governs funding to organisations for service delivery. The previous terms and conditions were rolled over from the financial years 2012-2015.

The terms and conditions were reviewed by the departments’ and sector representatives of the SAWG, a sub-group of the HSHPIC.

Sample Service agreements are available from the Funded agency channel.

## 3.1 Definitions and interpretation of the Service agreement

While individual clauses may be discussed separately in this Kit, the Service agreement has been designed to be read in its entirety. Individual clauses should be read in the context of the Service agreement as a whole.

The Service agreement includes subheadings to make it easier to read. These headings should not be used to assist with interpretation of the Service agreement.

Organisations should refer to the definitions in clause 1.1 when reading the terms and conditions. Additional definitions may also be included within a clause if that term is not used throughout the Service agreement. A term in the Service agreement that is defined will start with a capital letter.

If there is an inconsistency between the terms of the Service agreement, the inconsistency will be resolved in the following order of priority:

(a) the terms and conditions  
(b) the details of the agreement  
(c) Schedule 1  
(d) Schedule 2  
(e) Schedule 3

(Refer to [Chapter 2.2](#_2.2_Service_Agreement) for further detail on the structure of the Service agreement).

The laws of the State of Victoria apply to the Service agreement. Under the Service agreement, the Victorian courts will have jurisdiction to resolve any legal disputes.

## 3.2 Term of agreement

Clause 2 sets out the length of the Service agreement.

Generally, the departments will use the Service agreement from 1 July 2015 to 30 June 2019.

Organisations will be offered a Service agreement with a four year term, except where:

* the funding in the Service agreement is time limited, and will cease before 30 June 2019
* the Service agreement starts after 1 July 2015
* the Service agreement includes the provision of goods or services to people with a disability or otherwise relates to the administration of the *Disability Act 2006 (Vic).* This Act limits the length of such agreements to a period not exceeding three years
* other circumstances exist that warrant a shorter Service agreement period. Where this applies, the organisation will be advised of the reason for a shorter Service agreement period.

The Service agreement module in [My Agency](https://fac.dhhs.vic.gov.au/my-agency)  <https://fac.dhhs.vic.gov.au/my-agency> (external link, opens in a new window) provides organisations with a four year outlook of proposed funding, regardless of the term of the Service agreement.

There is no obligation on the department or the organisation to renew the Service agreement at the end of the term.

The Details page in the Service agreement lists the start date and end date of the Service agreement. Where a Service agreement is terminated, the end date will reflect that termination.

## 3.3 Service delivery

Clause 3 describes how services are to be delivered, including the standard and quality of services that need to be delivered by an organisation.

### 3.3.1 Quality of service delivery

Organisations will deliver the services in accordance with the Service agreement. This includes, but is not limited to:

* delivering the services in a timely and efficient manner using the standard of care and foresight expected of an experienced provider
* acting in accordance with the highest applicable professional ethics, principles and standards
* demonstrating a commitment to ethical practices and behaviours, and implementing these practices through appropriate training and monitoring.

Schedule 2 and 3 (where applicable) set out the services to be delivered, including data collection and performance targets. Further obligations are set out in departmental policy and funding guidelines:

[Department of Health and Human Services Policy and Funding Guidelines](https://www.dhhs.vic.gov.au/policy-and-funding-guidelines) <https://www.dhhs.vic.gov.au/policy-and-funding-guidelines> (external link, opens in a new window);

[Department of Education and Training Early Childhood Program and Services Guide](http://www.education.vic.gov.au/childhood/providers/funding/Pages/devgroupprogguide.aspx) <http://www.education.vic.gov.au/childhood/providers/funding/Pages/devgroupprogguide.aspx> (external link, opens in a new window).

When delivering the services, the organisation is required to comply with (among other things):

* all standards as gazetted under applicable Acts and standards endorsed by the department
* all applicable departmental policies, including those related to service specific requirements (including those listed in Schedule 1);
* performance targets (as listed in Schedule 2 and 3);
* laws including those related to fire protection, industrial relations, employment, health, general safety and taxation.

#### Access to applicable departmental policies

The department will provide the organisation with access to all applicable departmental policies and standards on the [Funded agency channel](file:///\\n068\group\BDB\SA%20Mgmt%20Group\SAIK\SAIK%202018%20Update\Funded%20agency%20channel) <https://fac.dhhs.vic.gov.au/my-agency> (external link, opens in a new window) and the [DHHS providers website](https://providers.dhhs.vic.gov.au/) <https://providers.dhhs.vic.gov.au/> (external link, opens in a new window).

#### Accreditation and registration requirements

Organisations need to gain and maintain the accreditation or registration required to deliver services, including those required by the department within applicable departmental policies. Registration under specific legislation is required for the delivery of some services.

For Department Health and Human Services funded organisations, 'registration' includes registration under the *Children, Youth and Families Act 2005 (Vic)* and the *Disability Act 2006 (Vic).* For DET, 'registration' includes approval under the *Educational and Care Services National Law Act 2010 (Vic)*.

#### Notification to the department and provision of information

An organisation must inform the department and provide information about all matters that the department should reasonably be made aware of. This may include for example, an incident involving a person receiving a service, or an issue that impacts on the delivery or sustainability of service, or the ability of an organisation to meet its obligation under the Service agreement. Certain applicable departmental policies may also deal with certain matters that the department must be made aware of or certain information that must be provided to the department.

### 3.3.2 Continuity of services

Organisations are responsible for ensuring continuity of service delivery.

Organisations are to deliver services as described in Schedules 2 and 3 and must not suspend or cease delivery of service, unless they have first notified the department in accordance with the procedure set out in clauses 3.4 and 3.5.

If an organisation intends to suspend or cease services, for any reason, the organisation will provide the department with at least three months’ notice in writing. This notice period enables the department to ensure that recipients of the services continue to be supported and/or are able to receive the services provided by another organisation.

Where an organisation needs to immediately suspend or cease services in circumstances where it is not possible to provide three months' written notice, they must immediately notify the department in writing. An example of when this may occur is where there is an outbreak of a serious illness at a facility that means an organisation is unable to operate.

Where the services are to be suspended, an organisation must notify the department of the duration of that suspension.

Where the services are to be suspended or ceased, and organisation must notify the date from which the delivery of the services will be suspended or ceased.

### 3.3.3 Compliance with Human Services Standards (Standards)

Organisations that receive funding from the Department Health and Human Services (the department) for activities in scope of the Human Services Standards (Standards) (gazetted as the Department of Health and Human Services Standards) are required, unless exempt by the department, to undertake an independent review against the Standards. The [Human Services Standards Policy](https://providers.dhhs.vic.gov.au/human-services-standards)<https://providers.dhhs.vic.gov.au/human-services-standards> (external link, opens in a new window) lists the activities in scope of the Standards. The Standards consist of the department’s four service delivery standards and the governance and management standards of a department-endorsed independent review body.

Organisations in receipt of department funding for in-scope activities are required to undertake one full certification review against the Standards in every three-year period, as well as maintain certification through the participation in mid-cycle audits (at least every eighteen months, per the process of the endorsed independent review body), except where a decision is made by the department to exempt an organisation.

Guidance about how to demonstrate compliance with the Standards is available in the [Human Services Standards evidence guide](https://www.dhhs.vic.gov.au/publications/human-services-standards) <https://providers.dhhs.vic.gov.au/human-services-standards-evidence-guide-word> (external link, opens in a new window)

The department has endorsed a number of independent review bodies to undertake reviews against the Standards which is available from the [Human Services Standards website](https://providers.dhhs.vic.gov.au/human-services-standards) <https://providers.dhhs.vic.gov.au/human-services-standards> (external link, opens in a new window)

Organisations that provide direct client services, but have otherwise been exempted by the department from independent reviews, may be required to undertake a self-assessment in accordance with the [Human Services Standards self-assessment report and quality improvement plan](https://providers.dhhs.vic.gov.au/human-services-standards). <https://providers.dhhs.vic.gov.au/human-services-standards> (external link, opens in a new window).

Where an organisation does not meet a Standard, it must:

* immediately resolve any non-compliance with the Standards that places a client at significant risk; or
* resolve any other non-compliances with the Standards within six months of the review.

Under the Service agreement the organisation agrees to an independent review body notifying the department that it has been engaged by the organisation. The organisation also agrees to the independent review body providing a copy of its review reports and other review information to the department.

Where the department requests additional information from an independent review body about an organisation's review, it will inform the organisation, unless there is a justifiable reason for not doing so, such as where notifying the organisation has the potential to compromise the collection of evidence in an investigation.

The department will receive a copy of the independent review body's review reports and may publish information about the organisation's performance against the Standards.

Under clause 10 of the Service agreement, the department may agree to allow the organisation to subcontract the services. The department's operational divisions will notify the department's Standards and Regulation team of any agreed subcontracting arrangements. The organisation must also advise Standards and Regulation by emailing [hsstandards@dhhs.vic.gov.au](mailto:hsstandards@dhhs.vic.gov.au).

Organisations that have obtained the department's prior written consent to engage a subcontractor to deliver all or part of the services must have a contract with the subcontractor that includes (among other things) a term allowing an independent review body to access the subcontractor's premises or place of business to conduct a performance review or audit of the subcontractor on the same terms and conditions as clause 9 of the Service agreement.

#### Relationship with registration under the Children, Youth and Families Act 2005 and Disability Act 2006

The *Children, Youth and Families Act 2005* and the *Disability Act 2006*set out the requirements for the registration of community services that deliver community-based child and family services and/or out-of-home care services and disability service providers.

The Standards are gazetted under the *Children, Youth and Families Act 2005* and the *Disability Act* and must be met by registered organisations.

For organisations new to registration, they must demonstrate their capacity to comply with the Standards via the department’s self-assessment report and quality improvement plan and undertake an independent review within 12 months of registration. To renew registration, organisations need to demonstrate compliance with the gazetted Standards, as evidenced by an independent review, unless exempt by the department.

The Service agreement does not affect any rights or obligations for the organisation and the department under the *Children, Youth and Families Act 2005* and the *Disability Act.*

For further information on registration relating to the Acts, refer to the ‘Policies, procedures and forms for the registration of disability service providers and community services’ available on [Human Services Standards](https://providers.dhhs.vic.gov.au/human-services-standards) <https://providers.dhhs.vic.gov.au/human-services-standards> (external link, opens in a new window).

Further information

For further information on the Standards and review processes refer to the [Department of Health and Human Services Policy and funding guidelines](https://www.dhhs.vic.gov.au/policy-and-funding-guidelines) <https://www.dhhs.vic.gov.au/policy-and-funding-guidelines> (opens in a new window) and the [Human Services Standards](https://providers.dhhs.vic.gov.au/human-services-standards) web page <https://providers.dhhs.vic.gov.au/human-services-standards> (external link, opens in a new window).

Any questions related to the Standards can be emailed to the Standards and Regulation Unit: [hsstandards@dhhs.vic.gov.au](mailto:hsstandards@dhhs.vic.gov.au).

## 3.4 Funding

### 3.4.1 Payment and use of funding

The department will fund an organisation if it meets its obligations under the agreement and delivers the services as described in the Schedules to the agreement. The funding to be paid to an organisation is set out in schedule 2.

The organisation is to use the funding provided by the department only for the delivery of services specified under the agreement. The funding will include direct service costs and the cost of overheads that the department considers inherent in the delivery of the services.

The organisation should ensure that all payments made from the funding are correctly made and properly authorised, including payments made to subcontractors. Organisations should also maintain proper and careful control over the incurring of liabilities.

The funding must not be used for donations to members of the State or Commonwealth Parliament or political parties.

Without the department's written consent, the organisation should not use the following as any security for any loan, credit, payment or other interest:

* funding provided under the Service agreement
* the Service agreement including any right, title or interest created under it
* any asset that has a service life greater than one year and is purchased or created (in full or in part) with funding provided by the department under the Service agreement
* intellectual property (purchased or created by the organisation under Service agreement).

If an organisation has an asset that has been created or otherwise brought into existence with funding under a separate agreement, such as a capital facility that is funded via a separate capital facility agreement and not through the Service agreement, the terms of the separate agreement will apply to determine if the asset can be used as security for any loan, credit payment or interest.

#### Unspent funding

There may be times when an organisation does not spend all the funding provided by the department. Where the department is satisfied that all services have been delivered as described under the agreement and the organisation has some funding left over, this funding may be retained by the organisation and used for ongoing service provision unless otherwise advised by the department.

There are some services that are funded on an estimate of the volume of service. When the actual volume of service is known, funding will be adjusted up or down to reflect the actual service delivery volume. For these services unspent funds may not be retained.

#### Funding and compliance with the Service agreement

Where an organisation meets its obligations under the Service agreement, the department will fund the organisation. If, in the reasonable opinion of the department, an organisation:

(a) does not comply with the Service agreement; or  
(b) does not deliver the services to the department's reasonable satisfaction; or  
(c) has used, spent or committed all or part of the funding other than in accordance with the Service agreement,

the department can:

* write to an organisation and require an organisation to repay that part of the funding within thirty days, or such other time period as agreed; or
* renegotiate the delivery of services by the organisation; for example the department may agree with the organisation that the organisation will deliver additional services in the next quarter to make up for services that not delivered in the previous quarter.

The department, when determining a course of action, will act reasonably and will notify the organisation of the organisation's non-compliance with the Service agreement before taking action. The organisation is entitled to trigger the dispute resolution process (clause 11) if it is not satisfied with the department's decision.

### 3.4.2 Price indexation

The department will increase the funding payable each year of the Service agreement by the rate of indexation approved by the Victorian Government. For financial years 2015-2019 the Victorian Government has approved the price indexation for funded organisations as detailed in the [Approved 2018-2019 Price index rates](https://fac.dhhs.vic.gov.au/approved-2018-2019-price-indexation-rates) <https://fac.dhhs.vic.gov.au/approved-2018-2019-price-indexation-rates> (external link, opens in a new window).

Price indexation has been delivered in a challenging fiscal and economic environment. Despite significant financial constraints, the Victorian Government is committed to increasing funding to help organisations meet cost pressures and ensure they can continue to deliver effective services that protect the most vulnerable members in our community. It is important for both the department and the community sector to manage costs and make the best use of available funds.

Annual price indexation is processed in July of each year of the Service agreement and organisations are notified when processing is completed. Increased payments, backdated to 1 July, are provided to organisations by the next scheduled payment in the Service agreement. Activities eligible for SACS pay equity (equal remuneration order) are indexed each year from 1 December (applies from 2012-2020).

#### Price index exceptional event arrangements

The price index exceptional event arrangement for the Department of Health and Human Services and the Department of Education and Training provides a formal mechanism for peak bodies to seek price adjustments where industrial and regulatory decisions occur which result in cost increases that are over and above the price index.

The scope of this arrangement for the Department of Health and Human Services and Department of Education and Training is outlined in the [Price index exceptional event arrangements](https://fac.dhhs.vic.gov.au/price-index-exceptional-event-arrangements) <https://fac.dhhs.vic.gov.au/price-index-exceptional-event-arrangements> (external link, opens in a new window).

#### Funding for substitute public holidays

When Christmas Day, Boxing Day and New Year's Day fall on a Saturday or Sunday, 'substitute' holidays occur on the following Monday / Tuesday. 'Substitute' days represent additional public holidays for the purposes of various enterprise agreements that cover staff on rosters that include Saturdays and Sundays. Appointment of these particular substitute holidays has been common practice for several decades and was legally enshrined as a permanent arrangement in the *Public Holidays Act 1993*.

Department Health and Human Services’ funding to organisations incorporates, on an annualised basis, the capacity to deal with 'substitute' public holidays days for the two Christmas holidays and New Year’s Day. There is no requirement to supplement this funding in the years when such substitute days occur.

In 2009, the Victorian Government declared a substitute holiday for ANZAC Day that fell on a Saturday that year. Supplementary funding was provided in that instance as up until then substitute holidays had never been declared for ANZAC Day. Such a declaration was not repeated in 2015 when ANZAC Day again fell on a Saturday.

Note that the *Public Holidays Act 1993* provides for a 'shift' of Australia Day holiday to the following Monday when the 26 January falls on a Saturday or Sunday. That is, no substitute holiday.

### 3.4.3 Goods and services tax

#### Processing of GST

Goods and Services Tax (GST) is payable where all three of the below conditions are met:

* An organisation has an active Australian Business Number (ABN).
* An Australian Business Number (ABN) uniquely identifies every Australian trading entity that has a relationship with the Australian Taxation Office (ATO), whether business, government or not-for-profit. Organisations need an ABN to register for GST. The department retains records relating to the ABN for each organisation. An organisation when entering into a new agreement with the department needs to provide the ABN that relates to the business entity that the Service agreement will be with.
* If the organisation is also the lead organisation for a consortium, the organisation will need to return the ABN and GST registration details for that consortium, in addition to its own GST and ABN details. The ATO provides a separate GST registration form for organisation groups/partnerships.

Further information on ABN registration is available on the [ATO website](https://www.ato.gov.au) <https://www.ato.gov.au> (external link, opens in a new window,).

* An organisation is registered for GST.
* The ATO requires that all entities carrying out an enterprise must register for GST if their annual turnover is at or above the ATO threshold of $75,000 (for commercial organisations) or $150,000 (for non-profit organisations). This includes income from all sources, not just funding from the department. The [ATO website](https://www.ato.gov.au/non-profit/your-organisation/gst/gst-registration/) <https://www.ato.gov.au/non-profit/your-organisation/gst/gst-registration/> (external link, opens in a new window) provides further information on registering for GST.

**The services supplied are a taxable supply**

Refer to the ATO website for a definition of [taxable supply](http://www.ato.gov.au/Definitions/) <https://www.ato.gov.au/definitions/> (external link, opens in new window).

**GST is not payable where:**

GST is not payable if the organisation:

* has an ABN but is not registered for GST
* has no ABN - If an organisation does not have an active ABN, a withholding tax of 46.5 per cent may be applied on the funding, subject to exceptions listed on the statement by a supplier - see [ATO website](https://www.ato.gov.au) <https://www.ato.gov.au> (external link, opens in a new window). For example, a withholding tax may not apply for organisations without an ABN, where funding is a low-value, one-off grant approved for a self-help group. It should be noted the department does not normally fund organisations through the standard Service agreement that do not have an ABN.
* the Service agreement is with a government entity (for example, local government, government schools, public hospitals) provided that the non-commerciality test is met by the entity receiving funds
* the services being supplied are not taxable supplies (applies to Disability individual support funding managed through a financial intermediary arrangement).
* gifts' made to the organisation by the department are not subject to GST. A gift is defined as a transfer of funds where there is no contractual obligation attached to those funds.

GST payment process where GST is payable

The process for GST payment is as follows:

* The department will pay the organisation the agreed funding, plus any applicable GST, either upon receiving a tax invoice from the organisation, or issuing a Recipient Created Tax Invoice (RCTI), whichever applicable (see below).
* The organisation will remit the GST to the ATO.
* The department will claim GST from the ATO.

**+ 10% GST**

Recipient Created Tax Invoices

GST legislation requires that where a taxable 'supply' is made that a tax invoice must be issued that must comply with certain requirements by the ATO.

Where GST is payable to an organisation, the department will issue a Recipient Created Tax Invoice (RCTI) to an organisation. An RCTI is a tax invoice issued by the payer (funder) rather than the supplier (payee) where the funder knows how much the supplier is to be paid. Where an RCTI is issued, an organisation does not need to issue a tax invoice.

This arrangement also enables the department to make payments in advance to organisations.

Recipient Created Tax Invoice Agreement

Under the GST legislation where an RCTI is to be issued this needs to be agreed to in writing.

Under the current Service agreement, by agreeing to the Service agreement where GST is payable to the organisation, an RCTI arrangement is authorised under section 29-70 (3) of the *A New Taxation System (Goods and Services Tax) 1999 (Cth).*

The organisation and the department agree under this arrangement that:

* the department is registered for GST and agrees that it will notify the organisation if it ceases to be registered for GST or ceases to satisfy any of the requirements of GST Ruling GSTR 2000/10
* the department will reasonably comply with its obligations under the taxation laws
* the department can issue a RCTI in respect of a taxable supply made to the department of goods or services provided by the organisation under the agreement and will provide a copy of each RCTI to the organisation and retain the original
* where an adjustment needs to be done in relation to GST, the department will issue a copy of each adjustment note to the organisation and retain the original
* the department will not issue a document that would otherwise be an RCTI, on or after the date when it or the organisation has ceased to satisfy the requirements of GST Ruling GSTR 2000/10
* the organisation will not issue tax invoices in respect of taxable supplies of goods or services to the department
* the organisation acknowledges that it is registered for GST and has an active ABN and agrees that it will notify the department within seven days if it ceases to be registered.

If the RCTI arrangement is unable to be implemented or ceases, for a funding payment to be processed the organisation must issue a tax invoice to the department in respect to any taxable supply made to the department by an organisation.

Any repayment of funding that was subject to GST where the organisation issued a tax invoice to the Department must be accompanied by an adjustment note from the organisation.

Where the Department previously issued an RCTI to the organisation, the department should issue a Recipient Created Tax adjustment note in respect of repayment

Change to GST status of the organisation

If the GST status of the organisation changes during the term of the agreement, they must notify the department in writing within seven (7) days of the change.

A 'change' in this context would be an organisation becoming registered or deregistered for GST, or ceasing to have an active ABN.

Presentation of GST in the Service agreement

The funding set out in the Service agreement document is exclusive of GST. Where GST is payable, it will be added at the applicable rate (currently 10 per cent) to scheduled payments at the time payment is actually made.

This process is used to make transparent to organisations the funding related to service delivery and the separate GST component. This enables organisations to immediately identify the GST component of payments for the department's funding, which must be remitted to the ATO.

Further information

Organisations can refer to the *A New Taxation System (Goods and Services Tax) 1999 (Cth)* for further information related to GST. The [Australian Taxation Office](http://www.ato.gov.au/) <http://www.ato.gov.au/> (external link, opens in a new window) website also provides information on the GST system.

If any organisation has any questions in relation to its taxation obligations, it should seek independent advice.

### 3.4.4 Acknowledgement and Publicity Guidelines

Organisations are required to acknowledge the funding support provided by the Victorian Government for the services funded.

A Victorian Government funding acknowledgement must be made in:

* publications and publicity related to services funded, for example, websites, press releases, brochures, posters and speeches/launches
* an organisation’s annual report.

The available logos should be used in conjunction with these [Acknowledgement and Publicity Guidelines](https://fac.dhhs.vic.gov.au/acknowledgement-and-publicity-guidelines-victorian-government-funding-support) <https://fac.dhhs.vic.gov.au/acknowledgement-and-publicity-guidelines-victorian-government-funding-support> (external link, opens in a new window). The logos can be downloaded from My Agency/Resources/other resources/Victorian Government insignia – logo for acknowledging of funding support.

For information about the Acknowledgement and publicity guidelines please contact your departmental contact.

## 3.5 Conflict of interest

### What is a conflict of interest under the Service agreement?

Under the Service agreement, a conflict of interest means a situation or the risk of a situation, where an officer, board member, employee, member, volunteer, subcontractor, representative or agent of the organisation has:

* duties or interests arising as a result of holding a position, possessing property, engaging in a business or occupation or from contractual obligations
* those duties or interests are in conflict with, or might appear to be in conflict with, their duties and interests under the Service agreement.

### What are examples of actual and potential conflicts of interest?

Examples of actual conflicts of interest include:

* a board member or committee member’s own business is given a contract related to the services funded and no competitive selection process was undertaken
* a board member or committee’s family member has been prioritised to receive services funded, above other clients and the prioritisation decision was made by the board member
* the chief executive officer’s (CEO) friend or family member is employed to deliver a funded service at the request of the CEO without the job being appropriately advertised or a formal selection process undertaken.

Examples of situations where there may be a potential conflict of interest include:

* the CEO being on a selection panel for a job where a relative has applied
* a board member or committee member has a child receiving services funded under the Service agreement and discussions are occurring about prioritisation of services that may impact on the services delivered to the board member’s child
* a board member's or committee member’s own business has applied for a contract to provide a service related to the funded program.

### Management and disclosure of conflict of interest

It important for organisations to have in place procedures and processes to identify, disclose and manage conflict of interest to:

* demonstrate to the community that it is performing its role in a fair, unbiased manner
* reduce the opportunities for unethical behaviour that may have legal consequences and/or may damage an organisation’s reputation.

Failure to respond to actual or potential conflicts of interest can damage the reputation and community confidence in an organisation. It may also have legal ramifications for an organisation.

Under clause 5.1(c) of the Service agreement, organisations are to have a written conflict of interest policy in place that ensures timely disclosure of any actual or potential conflict of interest by all of the organisation's board, members and employees, agents, volunteers and subcontractors.

Most organisations will already have in place conflict of interest policies due to their own governance requirements. The *Associations Incorporation Reform Act 2013* and the *Corporations Act 2001* sets out requirements for disclosure and management of conflicts of interest.

In establishing conflict of interest procedures, an organisation should consider its own individual circumstances, including for example how its board operates. Some general considerations include having in place:

* Processes to support board members, employees and other organisation representatives to recognise conflicts of interest. To identify a potential or actual conflict of interest the following questions may be asked by representatives of the organisation when making decisions:
  + - Do I have any personal or private interests in a matter that may conflict or be perceived to conflict with my duties in the organisation?
    - Could there be a benefit for me, my family or friends into the future if I involve myself in a matter?
    - How will my involvement be viewed by others?
    - Does my involvement in the decision being made appear fair and reasonable?
* Procedures to enable timely disclosure of conflicts of interests. A process for registering and recording conflict of interests could be put in place, for example, introducing on an annual basis a process for board members to declare any private interests that may have implications.
* Rules that require a representative of an organisation to restrict their involvement in matters where a conflict of interest is likely to arise, for example removing themselves from decisions or votes on related matters.
* Procurement and employment processes that are appropriate, transparent and fair.

If an organisation would like further information on the management and disclosure of conflict of interest, a number of resources are available from the:

* [Our Community website](https://www.communitydirectors.com.au/icda/) https://www.communitydirectors.com.au/icda/> (external link, opens in a new window)
* Governance resources on the [Not for Profit Compliance Support Centre website](http://www.nfpcompliance.vic.gov.au/) <http://www.nfpcompliance.vic.gov.au/> (external link, opens in a new window)
* Not-for-profit Law [Guide to legal duties of Committee or Board members for not-for-profit community organisations](http://www.nfplaw.org.au/governance) <http://www.nfplaw.org.au/governance> (external link, opens in a new window).

Organisations may also contact their peak bodies for further information and resources.

### What needs to occur under the Service agreement if there is a potential or actual conflict of interest in place?

When entering into a new Service agreement, an organisation is to agree that to the best of its knowledge there are no actual or potential conflicts of interest, and that no conflict of interest is likely to arise during the term of the Service agreement. Where an organisation has existing processes in place to manage conflict of interest, this requirement should be relatively easy to meet.

During the period of the Service agreement, where an organisation becomes aware of matters that give rise to an actual or potential conflict of interest relating to services being funded, the organisation is to inform the department and note the strategies in place to manage the conflict of interest.

The department acknowledges that organisations are likely to have well established procedures to manage conflict of interest and are often subject to a range of other existing governance-related regulation. Consequently, it is unlikely that the department will require an organisation to take any further steps.

The department may require an organisation to take particular steps to manage a conflict of interest. Where this is the case, these requirements must be reasonable and will be provided to the organisation in writing.

## 3.6 Recordkeeping

### 3.6.1 Financial records

Organisations are required to keep full and accurate financial records. In keeping these records organisations must ensure all financial transactions, including receipts and payments related to the funding provided by the department are clearly identifiable. The funding provided by the department should be able to be easily tracked within an organisation’s financial accounts.

An organisation's taxation liabilities and payments should also be clearly identifiable.

Each organisation will have certain legal requirements, based on the legislation under which the organisation is established, to meet financial accounting standards. The Service agreement requires that organisations meet these standards, which may include:

* preparing financial statements under the Australian Accounting Standards
* having accounts and records audited in accordance with Australian Auditing Standards.

Organisations should seek independent advice if they are unsure of applicable legislative requirements for keeping financial records.

For information on Australian Accounting Standards refer to:

* The [Australian Accounting Standard Board website](http://www.aasb.gov.au/pronouncements/current-standards.aspx) <http://www.aasb.gov.au/pronouncements/current-standards.aspx> (external link, opens in a new window).
* [CPA Australia non-for-profit business toolkit website](https://www.cpaaustralia.com.au/professional-resources/public-practice/toolkit) <https://www.cpaaustralia.com.au/professional-resources/public-practice/toolkit> (external link, opens in a new window).

The department may also require an organisation to keep financial records in a certain manner. Any such requirement by the department will be advised in writing.

### 3.6.2 Recordkeeping

In July 2010, the Public Record Office Victoria released the [Strategic Management Standard PROS 10/10](http://prov.vic.gov.au/government/standards-and-policy/all-documents/pros-1010) <http://prov.vic.gov.au/government/standards-and-policy/all-documents/pros-1010> (external link, opens in a new window) which specifies certain recordkeeping compliance requirements for Victorian Government agencies. The Standard was updated in July 2015

The record keeping clauses in the Service agreement require organisations to deal with records in accordance with the standards issued under the [Public Records Act 1973 (Vic)](http://www7.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/pra1973153/) <http://www7.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/pra1973153/> (external link, opens in a new window).

The clauses cover organisations' obligations to ensure:

* appropriate creation, maintenance and storage of hard copy and electronic records under the Service agreement, including the maintenance of an effective record management system
* access to records is appropriately controlled and regulated
* records are disposed of as required under the Service agreement
* records under the Service agreement are able to be accessed, retrieved, reviewed, kept and used by the department and Victorian Government, including immediate access by the department or any third party nominated by the department in any of the following circumstances:

(a) if required under the [Public Records Act 1973 (Vic)](http://www7.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/pra1973153/) <http://www7.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/pra1973153/> (external link, opens in a new window) or any other relevant law including the *Freedom of Information Act 1982 (Vic)* (refer [to chapter 3.6.3](#_3.6.3_Freedom_of)).  
(b) if requested by the Auditor-General or Ombudsman in writing  
(c) for the purposes of audit and performance monitoring under clause 9 (refer [to chapter 3.9](#_3.9_Audit_and)).

In circumstances other than those described immediately above, access to records must be provided to the department, or any third party nominated by the department, within five business days of receiving a written request.

Where the organisation, acting reasonably and in good faith, is unable to comply within the time specified (i.e. within five business days), the organisation may make a written request for an extension of time in which to comply. The department will not unreasonably refuse to consent to a requested extension.

The clauses provide that the department, on behalf of the Victorian Government, retains legal ownership of records under the Service agreement and to all records, materials and other resources the department provides to an organisation.

**Note:** The department, in accessing funded organisation records will act in accordance with relevant privacy laws and other applicable laws and will take reasonable measures to ensure that any information disclosed to it from an organisation is treated in a way that does not breach those laws.

#### Definition of record

Under the Service agreement, a record is any document within the meaning of ***the Evidence Act 2008 (Vic)***, including:

(a) anything on which there is writing; or

(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; or

(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or

(d) a map, plan, drawing or photograph,

created, managed, maintained, brought into existence or otherwise acquired or used by an organisation in relation to funding provided by the relevant department under the Service agreement, the services provided by the organisation under the Service agreement, and performance of the organisation’s obligations under the Service agreement.

#### Department of Health and Human Services - Record keeping factsheets

The department in consultation with the SAWG and the Public Record Office Victoria has produced fact sheets to support funded organisations in their record keeping. These fact sheets cover general information on record keeping, storage, access and security, record disposal and transfers, and freedom of information. The records management for funded organisations fact sheets are available on the [Funded agency channel](https://fac.dhhs.vic.gov.au/policies-and-procedures) <https://fac.dhhs.vic.gov.au/policies-and-procedures> (external link, opens in a new window).

### 3.6.3 Freedom of information

The [Freedom of Information Act 1982 (Vic)](http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/foia1982222/) <http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/foia1982222/> (external link, opens in a new window) (FOI Act) allows individuals to access certain information about their personal affairs and the activities of government organisations (including departments councils and prescribed authorities). The FOI Act also gives individuals the right to request that information held about them by these organisations that is incomplete, incorrect, out of date or misleading be amended or appropriately notated.

When a person makes a request to the department for access to their personal information, health information or any other information, the department will review the request to make sure that all necessary information has been included and the documents being requested have been clearly identified. The department will contact the person making the request if further information is required. The FOI Act requires the department to provide an applicant with a decision within 30 days from when a valid request is received.

A request received by the department may include documents or records that are held by organisations funded by the department. Clause 6.6 of the Service agreement requires organisations to provide the department, or any other person authorised by the department, with access to records that relate to a request under the FOI Act, or any other laws that apply to the records, if those records are in the organisation’s possession or control.

If an organisation receives a request referring to the FOI Act and seeking access to records held by the organisation, the organisation should advise the applicant that the request should be made to the department and, as an alternative, offer to process the application as a request by the individual for access to their personal information (under the [Privacy and Data Protection Act 2014 (Vic)](http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num_act/padpa201460o2014317/)<http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num\_act/padpa201460o2014317**/**>(external link, opens in a new window) (PDP Act) and/or their health information, under the [Health Records Act 2001 (Vic)](http://www.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/hra2001144/)<http://www.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/hra2001144/> (external link, opens in a new window)(HR Act), see below.

#### Access and correction of personal information

Under the Service agreement, funded organisations must ensure that they comply with the Information Privacy Principles (IPP) under the PDP Act and Health Privacy Principles under the HR Act.

IPP 6 and HPP 6 requires an organisation that holds personal information or health information about an individual to provide the individual with access to their personal or health information upon request, unless the organisation is not required to provide access because of a reason set out in IPP 6.1 (a) to (j) or HPP 6.1 (a) to (l) which may include circumstances where:

* providing access would:
  + - pose a serious and imminent threat to the life or health of any individual
    - have an unreasonable impact on the privacy of other individuals
    - be unlawful
    - be likely to prejudice an investigation of possible unlawful activity
* the request for access is frivolous or vexatious
* the information relates to existing legal proceedings between the organisation and the individual, and the information would not be accessible by the process of discovery or subpoena in those proceedings.

Funded organisations should be aware that where an individual makes a direct request to an organisation for access or correction to their personal or health information, the organisation must directly respond to the request in accordance with IPP 6 or HPP 6, as the case may be.

When providing access to personal or health information, funded organisations need to ensure that they do not infringe any third person’s privacy rights. Further information on the IP Act (IPP 6) and HR Act (HPP 6) is found in [Chapter 3.17](#_3.17_Privacy,_Data).

#### Requirements of the Department of Health and Human Services

Under clause 6.3(b) of the Service agreement, organisations that are funded by the department are required to maintain custody of and manage records in a way which allows the department to quickly and easily access, retrieve and review the records, including when requests are made under the FOI Act.

The Service agreement also requires organisations to advise the department about records that may fall within the scope of a request or direction received by the department under the FOI Act or any other law, where the department has notified the organisation about the details of the request or direction in writing.

#### Fact sheet 5: Freedom of information and funded organisation records

A fact sheet on Freedom of Information is available on the [Funded agency channel](https://fac.dhhs.vic.gov.au/policies-and-procedures) <https://fac.dhhs.vic.gov.au/policies-and-procedures> (external link, opens in a new window) under 'Records management for organisations funded under the Service agreement'. Refer to 'Fact sheet 5: Freedom of information and funded organisation records'.

Further information

If organisations have any further queries on Freedom of Information (FOI) please contact the FOI enquiry line on 9096 8449.

Further information about the FOI Act is available at the [Freedom of Information website](http://www.foi.vic.gov.au/) <http://www.foi.vic.gov.au/> (external link, opens in a new window) and the [Freedom of Information Commissioner website](http://www.foicommissioner.vic.gov.au/) <http://foicommissioner.vic.gov.au/> (external link, opens in a new window).

Further information about the Privacy and Data Protection Act for Victorian Government departments and funded organisations is available at the [Commissioner for Privacy and Data Protection's website](https://www.cpdp.vic.gov.au/) <https://www.cpdp.vic.gov.au/> (external link, opens in a new window).

## 3.7 Assets

The following pages provides additional information on the Assets clauses in the Service agreement:

### 3.7.1 Definition of an asset under the Service agreement

Assets are defined under the Service agreement as non-consumable items of tangible property (including fixtures) that have a service life greater than one year that are purchased, created or otherwise brought into existence (whether in whole or in part) with the use of funding under the Service agreement. Assets can include:

* non-medical equipment
* equipment or aids to support clients
* electronic equipment (such as computers)
* furniture
* motor vehicles.

For the purpose of the Service agreement, the asset clauses and processes described in clause 4.6 and clause 7 (as discussed further below) only apply where the department has specifically allocated funding for an asset or assets under the Service agreement. For example, the department may provide an organisation with specific funding to purchase a vehicle that is equipped for people with a disability.

The vast majority of funding provided by the department is for the provision of services to individuals and the community. When delivering services, organisations often make use of a range of assets. Some of the funding provided for service delivery may have been used to purchase these assets, but for the purpose of the Service agreement these types of assets do not need to be dealt with as described in clause 4.6 and clause 7 unless funding was specifically allocated for them under the Service agreement.

When funding the development of a building or other facility, the department and organisation will normally enter into a separate agreement containing terms more appropriate for that kind of arrangement. The terms and conditions of that agreement will detail how those assets are managed.

### 3.7.2 Keeping an asset register

Organisations, as a normal part of managing their operations and finances, are likely to keep a register of assets they own.

Where the department has specifically allocated funding through the Service agreement for the purchase of an asset or assets, details of the asset or assets are to be recorded in an asset register. Where the asset is partly funded by the department, the proportion of the department’s contribution is to be recorded.

Organisations may keep a separate register for the assets specifically funded by the department, or can incorporate this information into the organisation’s overall asset register, provided the assets are clearly recorded as having been funded by the department.

This asset register is to be made available to the department when requested. Where an organisation has incorporated assets specifically funded by the department into their overall asset register, they need only provide a list of department funded assets when requested to do so. The department will undertake a review of a sample of organisation asset registers each year.

The format of the asset register is at the funded organisation's discretion, provided that it meets the organisation's obligations under the Service agreement. Assets registers normally include the information detailed in Attachment 1 under '[Sample of an asset register'](#_Sample_of_an).

### 3.7.3 Disposal of assets

Disposal of as asset refers to when an asset is sold, lost, transferred, destroyed or scrapped. If an asset is traded in, it will be treated as a disposal.

Any asset specifically funded by the department that is worth over $5,000 (exclusive of GST) at the time of disposal can only be disposed of with the department's prior consent under clause 7.2. The department's consent is not required for the disposal of assets worth $5,000 or under (exclusive of GST) at the time of the disposal.

When an asset is sold or otherwise disposed of, the details of the disposal (such as sale proceeds) are to be recorded in the organisation's financial records and recorded on the asset register.

Where an asset is disposed of the department may:

* reduce the amount of funding payable under the Service agreement by the depreciated value of the asset; or
* request the organisation to reimburse the department of an amount equal to the depreciated value of the asset.

The department will advise the organisation in writing if funding is to be reduced or amounts are to be reimbursed to the department following the disposal of an asset. This information will be provided at the time the department is considering the request to sell or otherwise dispose of the asset.

### 3.7.4 Loss damage and destruction

An organisation is responsible for and will bear all risks, expenses and running costs for assets, including any insurance and registration costs.

Where an organisation loses, damages, or destroys any asset (purchased with a specific departmental funding grant) it is to repair or replace the asset. The department may in some circumstances agree in writing that the asset does not need to be repaired or replaced, for example a photocopier that is now outdated.

### 3.7.5 Transfer of assets

Where an organisation ceases to provide services and has assets that were purchased entirely or in partly through a specific departmental funding grant, the department may request the organisation to:

* transfer the assets to another service provider
* transfer the assets to the department
* reimburse the department an amount equal to the depreciated value of the asset.

The transfer of assets to a third party, such as another service provider, enables the assets to continue to be used in the delivery of services.

If a third party has a stake in the asset (i.e. has provided part funding for the asset), an organisation is to obtain the appropriate consent of the third party if it is considering transferring ownership of the asset or selling the asset to reimburse the department.

Assets that have fully depreciated which were worth less than $5000 at the time of purchase, will be viewed by the department as owned by the organisation and able to be retained by the organisation.

When an asset is transferred from one organisation to another, it must only be depreciated to the end of the month of the transfer and reported in the organisation's statement of financial position at the end of the financial year.

The organisation that receives the asset should record the asset at the written down value, as supplied by the transferring organisation, commence depreciation from the first full month following acquisition and include the asset in the statement of financial position at the end of the financial year.

### 3.7.6 Depreciation in accordance with Australian Accounting Standard

The straight-line method of calculating depreciation is preferred by the department (see Attachment 1 [Sample depreciation of non-current physical asset](#_Sample_depreciation_of)).

Depreciation should commence in the month after the acquisition and installation of the asset (disregarding fractions of a month). The disposal of an asset should cause depreciation to cease at the end of the month in which the asset was disposed of (disregarding fractions of a month).

If an organisation decides not to use the standard depreciation rates in Attachment 1 ['Recommended annual depreciation rates'](#_Recommended_annual_depreciation), it should engage a suitably qualified person to determine a rate consistent with the relevant method for calculating depreciation on assets of that type as determined by the Commonwealth Commissioner for Taxation based on the asset's estimated useful life at the time of acquisition. This approach may be necessary when dealing with any specialist equipment.

### 3.7.7 Assets funded under previous Service agreements

Departmental policies on assets relating to the Service agreement have been updated to reflect the recent changes to clauses in the new Service agreement, which took effect on 11 December 2015.

The current policy will be applied to assets funded under the current and previous Service agreements.

The term Service agreement and this policy does not apply to other legal documents relating to assets, such as Capital Agreements.

## 3.8 Reporting

The organisation will provide the department with information and reports on the services delivered.

This section provides information on reporting and accountability, including financial reporting to the department.

### 3.8.1 Reporting and accountability

Organisations are accountable for the appropriate use of funding, and for the delivery of the services specified in the Service agreement.

#### Service agreement Compliance Certification (SACC)

Most organisations funded through a Service agreement will be required to submit an annual Service agreement compliance certification (SACC).

The SACC contains questions relating to:

* Financial Management, that the organisation has used funding as outlined in their Service agreement, is financial viable, has prepared its financial reports and any audit reports and maintains an asset register.
* Risk Management, that risks are managed in accordance with the Australian/New Zealand Risk Management Standard.
* Staff safety screening, referee checks, police checks, and if relevant Working with Children Checks have been completed.
* Privacy and Data Protection, that the organisation’s practices and systems that do not contravene the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*, to protect personal and health information.

The SACC must be submitted to the department three months after the organisation’s financial operating period, or seven days after the organisation’s Annual General Meeting.

**Does the SACC apply to my organisation?**

The SACC form is mandatory for:

* Organisations that are funded by the Department of Health and Human Services and/or the Department of Education and Training through a Service agreement.
  + Organisations in scope of the Carer Register, the Disability Worker Exclusion Scheme and Human Services Standards and Accreditation.

Risk Management questions do not apply to the following organisations:

* + TAFEs and Universities, some Statutory Bodies and other organisations that already complete a Risk Management Attestation/Certification to the Victorian Government. This could be part of their annual reporting requirements under the Financial Management Act or publishing similar certification in their Annual Reports as required by legislation.

Financial statements are not submitted by the following organisations, although they still respond to the four financial management questions:

* Local government
* universities/TAFE
  + Government schools.

The SACC form is not required for:

* Organisations that only receive funding under a Short Form Common Funding Agreement
  + Hospitals are excluded when they already complete financial reports to the Department Health and Human Services on a monthly basis; complete a Risk Management Attestation/Certification and are scrutinised by the Health Services Commissioner in relation to their compliance with the Health Records Act and the Privacy and Data Protection Act; and where they currently manage staff file sampling as part of accreditation processes and other compliance requirements, including the Australian Health Practitioner Regulations

**Further information**

[Guidelines for the Service agreement compliance certification (SACC)](https://fac.dhhs.vic.gov.au/guidelines-service-agreement-compliance-certification-form) <https://fac.dhhs.vic.gov.au/guidelines-service-agreement-compliance-certification-form> (external link opens in a new window)

Assistance completing the SACC email [MonitoringFramework.helpdesk@dhhs.vic.gov.au](mailto:MonitoringFramework.helpdesk@dhhs.vic.gov.au)

#### Data collection

To ensure accountability, organisations are required to regularly report on its funded services through data collections and other reporting. This allows the organisation and department to periodically review progress and to adjust the Service agreement if necessary.

Details of data collection requirements are located in Schedule 2 of the Service agreement, the Service agreement Module on [Funded agency channel](https://fac.dhhs.vic.gov.au/) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window) and in departmental [Policy and funding guidelines](https://www.dhhs.vic.gov.au/policy-and-funding-guidelines) <https://www.dhhs.vic.gov.au/policy-and-funding-guidelines> (external link, opens in a new window).

General information about data collections is available from data collection section of the Funded agency channel.

#### Service Delivery Tracking - Department of Health and Human Services (human services)

The department’s service delivery tracking process enables the department and providers to have a shared view of service delivery against their Service agreement targets in a timely manner.

Organisations funded for in scope activities are required to submit performance data on a monthly basis through an online service delivery tracking tool in Funded agency channel (My Agency).

Further information about Service Delivery Tracking can be found on the Funded agency channel's [Service Delivery Tracking webpage](https://fac.dhhs.vic.gov.au/funded-agency-channel/service-delivery-tracking) <https://fac.dhhs.vic.gov.au/funded-agency-channel/service-delivery-tracking> (external link, opens in a new window).

#### Standard Chart of Accounts

Requests for financial information from non-profit community organisations by the Victorian Government must be consistent with the Victorian Standard Chart of Accounts (SCoA), including terminology.

The SCoA was implemented on 1 July 2010 and is a set of standard accounts which provides a common approach for government when collecting financial information from non-profit community organisations.

The SCoA and its support materials can be found at the [Accounting for Good](http://www.accountingforgood.com.au/) website <http://www.accountingforgood.com.au/> (external link, opens in a new window).

### 3.8.2 Financial accountability requirements

Organisations are required to report their financial position and complete the financial accountability requirements in the SACC to the department on an annual basis. This confirms the organisation’s compliance with the requirements of clause 6 and 8 of the Service agreement.

Organisations need to attach relevant financial data and/or URLs via the Service agreement module of the Funded agency channel. This includes the information of the location of the organisation’s Annual Report, a Financial Indicator Statement (FIS) or a Cash Indicator Statement (CIS).

Where an organisation receives funding from more than one department, only one Financial Accountability Requirement (FAR) is required which will cover the requirements for Department Health and Human Services and Department Education and Training.

FAR reporting assists the funding department(s) to ensure that there is a financially sustainable service system. Finance staff from the department(s) analyse the financial position of each funded organisation and monitor financial position trends over time.

#### Annual FAR requirements

Your annual financial statements/annual report are the preferred documentation to be supplied in support of your FAR or SACC.

If your organisation is not legally required to produce these documents, you may download and complete either the CIS (if your total income is less than $250,000) or FIS and Auditor’s Statement templates, which are below.

Financial statement/annual reports are not required from Local Government, Government schools, Universities, TAFE and Non-Incorporated Consortia. These organisations need only provide the Annual Certification as part of the Service agreement Compliance Certification (SACC).

#### Standard financial reporting templates

Organisations should ensure that the applicable reporting period is inserted (for example 1 Jul 2017 to 30 Jun 2018) as well as details of the organisation. The following reporting templates are available on the Funded agency channel under the attachments tab:

* Financial indicators statement (FIS)
* Cash indicators statement (CIS)
* Independent Auditor's Report (only if required by law to have financial statements audited).

If you are still unsure about your FAR reporting requirements please contact your Service agreement contact or payment contact.

**Financial reporting standards**

Organisations are required to comply with the Australian Equivalents to International Financial Reporting Standards (AIFRS) which came into effect in 2005.

Information about the AIFRS can be found on the [Australian Accounting Standards Board's website](http://www.aasb.gov.au/Home.aspx) <http://www.aasb.gov.au/Home.aspx> (external link, opens in a new window).

### 3.8.3 Timelines for Service agreement compliance certification

The Service agreement compliance certification is based on the organisation's operating period.

From July 2016, FAR reporting has been incorporated into the Service agreement compliance certification (SACC). Organisations can record the planned date of their AGM against the SACC online via the Service agreement module of the [Funded agency channel](https://fac.dhhs.vic.gov.au) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window). This will automatically update the due date for SACC completion.

The annual SACC must be submitted to the department:

* within three months of the end the organisation's financial operating period. For example, an organisation operating on:
  + - Financial year (1 Jul to 30 Jun) - Due by 1 Oct
    - Calendar year (1 Jan to 31 Dec) - Due by 1 Apr
    - Other (1 Oct to 30 Sep) - Due by 1 Jan
    - Other (1 Nov to 31 Oct) - Due by 1 Feb
    - Other (1 Apr to 31 Mar) - Due 1 Jul
  + **OR** within seven days of the organisation’s Annual General Meeting *if this is later than three months after the end of the organisation’s financial operation period.*
  + **OR** another time if agreed by the department and the organisation.

Where the department has reasonable concerns about an organisation's financial position, the department can require more frequent FAR reporting under clause 8.2. The department will discuss any concerns it has with the organisation and advise in writing of any additional reporting requirements.

### 3.8.4 Glossary of financial accountability terms

Accrual accounting

A system that records expenses in the period in which they were incurred regardless of when the cash is actually paid out (for example, depreciation or long service leave). In the case of revenue, this is recorded in the period in which it was earned regardless of when cash is actually received (for example, unpaid fees).

Activity

The specific health or community services operation carried out under the department output. For example, occasional care is a service activity under children's services.

Assets

Service potential or future economic benefit controlled by the organisation as a result of past transactions or other past events.

Cash accounting

A system that records cash payments made and funds received.

Current assets

Cash or assets that are intended to be converted to cash within a 12 month period (for example, petty cash advance and debtors).

Current liabilities

Amounts owed by the organisation to outside parties that are intended to be paid within a 12 month period (for example, creditors and bank overdraft).

Liability

An obligation to pay in the future for a past transaction or event.

Non-current assets

Assets that are not intended to be converted to cash within a twelve month period. These are not purchased with the intention of resale (for example, vehicles, furniture and fittings, land and buildings).

Non-current liabilities

Amounts owed by the organisation to outside parties that are not required to be repaid in full within a 12 month period (for example, mortgage and loans).

## Audit and performance review

Under the Service agreement, the department can conduct, or engage a third party to conduct, a performance review or an audit of an organisation. A performance review or an audit may be conducted at any reasonable time, at the department's expense:

* for the purpose of monitoring and assessing the organisation's performance of its obligations under the Service agreement or the delivery of the services
* if the department has reasonable concerns that the organisation may not be delivering, or may be unable to deliver, all or part of the services in accordance with the Service agreement
* if the organisation's records give the department reasonable concern about the organisation's compliance, or ability to comply, with the Service agreement
* if the department has reasonable concerns that the organisation is not financially stable
* if the department has reasonable concerns that the organisation has misused all or part of the funding; or
* to confirm whether the funding has been used for the correct purposes.

The organisation is required to:

* cooperate with and provide assistance to the department or any third party engaged by the department to conduct the audit or performance review.
* make available to the department or any third party engaged by the department all information and records needed for the audit or performance review in accordance with any written request from the department or third party engaged by the department. Records under the agreement may include for example (but are not limited to) client files, policies/guidelines related to service delivery, records on staff, carer and volunteers, and governance documents related to the compliance of the organisation in meeting its obligations under the Service agreement.
* allow the department or any third party engaged by the department access to the organisation's premises or place of business to carry out the audit or performance review.

### Information for Department of Health and Human Services (human services' Service agreements)

For organisations funded through the department, audits and performance reviews under clause 9 are separate to the reviews undertaken by independent review bodies under clause 3 of the Service agreement.

## 3.10 Assignment and subcontracting

The Service agreement includes provisions allowing organisations to subcontract any or all services to a third party if the department has provided its prior written consent.

### What is subcontracting?

Subcontracting refers to a funded organisation engaging another organisation or person (excluding employees of the funded organisation) to undertake the services set out in the Schedules of the Service agreement. For example, an organisation is funded to provide 100 episodes of community respite services may wish to engage another organisation under a subcontract to deliver 20 of these episodes.

For the purposes of this clause, the following is not considered subcontracting:

* employment of contract or temporary staff to fill vacancies within the organisation that is ordinarily funded to provide the services
* services being provided to an organisation for its ordinary operational needs that do not directly involve the provision of the funded services, such as information technology, human resources or cleaning
* where the purpose of the funding is specifically for the organisation to engage or fund other providers to deliver services or supports. For example:
  + - where an organisation is funded a discretionary amount for client directed supports e.g. the engagement of a massage therapist for a service user
    - where a peak research body is funded to provide grants to other organisations for health research.

### Process for obtaining approval for subcontracting

Any proposal for subcontracting needs to be made in writing and include all relevant information on the proposed subcontracted services, including the period of the proposed subcontract and details of the proposed subcontractor. The department will only be taken to have consented if consents in writing, and may impose conditions as part of its consent.

### Engaging a subcontractor

If the funded organisation wants to assign its rights or obligations or subcontract with a third party for the provision of all or part of the services, the funded organisation must satisfy the department that the relevant third party can deliver the services on the same terms and conditions as the Service agreement and that the third party agrees to comply with any requirements of the department as a condition of granting its consent.

Before subcontracting services, organisations are strongly advised to seek their own legal advice. Organisations must ensure that a subcontracting arrangement does not compromise their obligations under the Service agreement.

The contract between the organisation and the subcontractor will need to include the same terms and conditions as the Service agreement, including a term that specifically allows the department to access the subcontractor’s premises or place of business to conduct a performance review or audit of the subcontractor on the same terms and conditions as clause 9 of the Service agreement (Refer to [Chapter 3.9](#_3.9_Audit_and)).

Despite the department consenting to a subcontracting arrangement, the funded organisation remains responsible for the delivery of any subcontracted services. The acts, omissions and mistakes of a subcontractor performing any services will be taken to be the acts, omissions and mistakes of the funded organisation.

### Information for Department of Health and Human Services (human services)

Funded organisations that have their services reviewed by an independent review body under clause 3 of the Service agreement (refer to [Chapter 3.3.3](#_3.3.3_Compliance_with)) will need to ensure that any contract with an approved subcontractor includes a term that the subcontractor agrees to allow an independent review body to access the subcontractor’s premises or place of business to conduct a review.

## 3.11 Dispute resolution

Where a dispute arises, the organisation and department must seek to resolve the dispute through open and good faith discussions in the first instance. The organisation and the department are to act reasonably in these discussions.

All Australian governments have a common law responsibility to act as model litigants. Victoria has its own Model Litigant Guidelines. They set standards for how the state should behave as a party to legal proceedings. These guidelines are available on the Department of Justice and Regulation’s web page [‘Victorian Model Litigant Guidelines’](http://www.justice.vic.gov.au/home/justice+system/laws+and+regulation/victorian+model+litigant+guidelines) <http://www.justice.vic.gov.au/home/justice+system/laws+and+regulation/victorian+model+litigant+guidelines> (external link, opens in a new window).

If a dispute is unable to be resolved through good faith discussions, the Service agreement sets out the following steps to resolve the dispute:

**Step 1**

The party claiming that the dispute has arisen will give written notice to the other party, describing in full the details of the dispute (the “First Notice”).

**Step 2**

Within fourteen days of receiving the First Notice, the parties will meet to discuss and try to resolve the dispute.

**Step 3**

If the dispute remains unresolved twenty one days after receipt of the First Notice, then either party may give written notice (the “Second Notice”) to the other party requesting that the dispute be referred to the Dispute Resolution Officer for resolution.

**Note:** The Dispute Resolution Officer will normally be a Deputy Secretary or Director of the department who is not ordinarily involved directly in managing the Service agreement under which the dispute has arisen.

**Step 4**

Within fourteen days of receiving the Second Notice, the parties will either meet with the Dispute Resolution Officer to discuss the dispute or provide written submissions regarding the dispute.

**Step 5**

Within twenty eight days of receiving the Second Notice, the Dispute Resolution Officer will provide their decision to the parties in writing.

**Step 6**

Within fourteen (14) days from the date the Dispute Resolution Officer provides their decision in writing, either party may provide written notice to the other party referring the dispute to mediation (the "Mediation Notice").

**Step 7**

Within fourteen (14) days of receiving the Mediation Notice, the party that received the Mediation Notice will provide written notice to the other party as to whether or not it agrees to mediate. Failure to provide this notice will not be deemed agreement to mediate.

**Step 8**

If neither party provides a Mediation Notice to the other, or if the party served with the Mediation Notice does not agree to mediate to resolve the dispute, then any decision of the Dispute Resolution Officer above will be final and binding on the parties.

**Step 9**

If the party served with the Mediation Notice agrees to mediate then the parties will mediate to resolve the dispute on the following terms:

* a mediator may be appointed either by agreement between the parties or, failing such agreement within seven (7) days of the date of the Mediation Notice, by the president of the Law Institute of Victoria
* each party will bear their respective costs of the mediation. However, the mediator's fee, fees for mediation rooms and costs of shared equipment facilities and services of the mediation will be shared equally
* the venue for the mediation will be agreed between the parties or, failing such agreement, will be nominated by the mediator
* each party may be legally represented if they so wish
* the mediation will be conducted without prejudice and complete confidentiality will be preserved in respect of the mediation and any documents and information used at or in relation to the mediation
* if the dispute is still unresolved within twenty eight days after the date of the Mediation Notice (or after such other period of time agreed by the parties), the parties agree that the Dispute Resolution Officer will provide a new decision in writing (which may be the same as the decision made by the Dispute Resolution Officer in Step 5 before the mediation process commenced) and such decision will be final and binding on the parties.

If the department and the organisation agree, the parties can also choose to mediate earlier than provided for under the dispute resolution process.

During the dispute resolution process, the parties will continue to perform their obligations under the Service agreement despite the existence of any dispute. Nothing in the Dispute Resolution clause (clause 11) affects the parties' abilities to exercise their rights under the Suspension clause (clause 12), Cessation clause (clause 13) and Termination of Agreement clause (clause 14).

## 3.12 Suspension

### 3.12.1 Suspension of services

The department is able to immediately suspend delivery of all of or part of the services described under the Service agreement by giving written notice, if:

* the organisation has failed to meet the Standards and performance targets listed in any schedule to the Service agreement in respect of the services
* the organisation or its subcontractor is undergoing or is about to undergo a performance review or audit under the Audit and Performance Review clause (clause 9.1(b)-(e))
* the organisation has failed to follow any applicable departmental policies or the organisation’s own policies
* the organisation has misused any of the funding, or has shown an inability to properly manage its assets
* the organisation has breached the Service agreement and notice has been given by the department of the breach; or
* the organisation or its officer, board member, employee, member, volunteer, subcontractor, representative or agent has breached any law that is applicable to the services or the operation of the organisation.

The department may also request the organisation to suspend the delivery of services, or part of the services, by giving five business days' written notice, if the department reasonably suspects any of the following:

* that the organisation has failed, or is likely to fail, to meet the Standards and performance targets listed in any Schedule to the Service agreement in respect of the services
* that the organisation has failed, or is likely to fail, to follow any applicable departmental policy or the organisation's own policies
* that the organisation has misused funding or is unable to properly manage its assets; or
* that the organisation or its officer, board member, employee, member, volunteer, subcontractor, representative or agent has breached any law applicable to the services or the operation of the organisation.

The department may, by giving written notice to the organisation reduce the services to be delivered under the Service agreement to reflect any suspension of all or part of the services under clause 12. When services are suspended, the department may fund a third party to deliver all or part of the suspended services. This is to ensure continuity of service for clients accessing the services.

The organisation and the department can exercise their rights under the cessation clause (clause 13 - refer to [Chapter 3.13](#_3.13_Cessation_1)) and the termination clause (clause 14 - refer to [Chapter 3.14](#_3.14_Termination_of)) at any time during the suspension of the services.

The organisation and the department can enter the dispute resolution process (clause 11 - refer to [Chapter 3.11](#_3.11_Dispute_resolution)) at any point during the suspension of services.

### 3.12.2 Suspension of funding

The department may immediately stop paying all or part of the funding on giving written notice to the organisation if:

* the organisation does not meet, or report on, a milestone that is linked to a payment of funding
* the organisation has failed to meet the Standards and performance targets listed in any schedule to the Service agreement in respect of the services
* the organisation has misused or has shown an inability to properly manage its assets
* the organisation has breached the Service agreement and notice has been given by the department of the breach
* the department has reasonable concerns that the organisation is not financially stable; or
* the organisation has been requested by the department to suspend all or part of the services under clause 12.

The department may also stop paying the organisation all or part of the funding on giving five business days’ written notice to the organisation if any of the following occurs:

* the department reasonably suspects that the organisation has failed, or is likely to fail, to meet the Standards and performance targets listed in any Schedule to the Service agreement in respect of the services
* the department reasonably suspects that the organisation has misused funding or is unable to properly manage its assets; or
* the department has requested the organisation to suspend all or part of the services under clause 12.1A.

The department will write to the organisation to inform it when the funding in Schedule 2 will be reduced to reflect the suspension.

The organisation and the department can exercise their rights under the cessation clause (clause 13 - refer to [Chapter 3.13](#_3.13_Cessation_1)) and the termination clause (clause 14 - refer to [Chapter 3.14](#_3.14_Termination_of)) at any time during the suspension of funding.

The organisation and the department can enter the dispute resolution process (clause 11 - refer to [Chapter 3.11](#_3.11_Dispute_resolution)) at any point during the suspension of funding.

## 3.13 Cessation

The department can require an organisation to immediately and permanently cease delivery of part of the services on giving written notice to the organisation if:

* the organisation fails to satisfactorily remedy a breach of the Service agreement, within thirty days of receiving notice of the breach from the department
* if in the reasonable opinion of the department, the organisation commits a serious or material breach of the Service agreement which is not capable of remedy
* the Organisation behaves in a way that may:

(i) be contrary to prevailing community standards; or

(ii) be regarded by the public as unacceptable; or

(iii) bring the reputation of the organisation into disrepute;

and the department reasonably believes that continued association with the organisation may be detrimental to the reputation of the department; or

* the organisation breaches an essential term of the Service agreement. Essential terms of the Service agreement are clauses 3.1(e) [Quality of Service Delivery], 3.6 [Compliance with Standards], 4.4, 4.5, 4.6 and 4.7 [Funding].

Written notice will be provided to the organisation as soon as possible if the department requires the organisation to cease delivery of part of the services. The department may also stop payment of part of the corresponding funding at the same time as ceasing part of the services. The department may fund a third party to deliver any services that have been ceased to ensure continuity of service for people accessing the services.

The department can also require an organisation to permanently cease delivery of part of the services by giving three months’ written notice if:

* the department does not receive sufficient funds from either the Victorian Parliament or the Commonwealth Government to finance the program or part of the services
* there is a change in Victorian Government policy that affects the program or part of the services.

In these particular circumstances (i.e. where services are being ceased due to not receiving sufficient funding or a change in policy), the department will advise the organisation of any further actions that the department reasonably expects to take in relation to or as a result of the cessation of services.

## 3.14 Termination of agreement

The Service agreement can be terminated under the following circumstances:

* termination for breach
* termination by the department (on certain specified grounds)
* termination without fault.

These processes are described below.

### Termination for breach

If the organisation or the department is in breach of the Service agreement, written notice may be provided to the party alleged to be in breach requiring that party to remedy the breach within thirty days of receiving the notice. If the breach is not satisfactorily remedied within thirty days, the party who gave notice may immediately terminate the Service agreement by giving written notice.

The dispute resolution process (clause 11) can be entered into at any time during this process (refer to [Chapter 3.11](#_3.11_Dispute_resolution)). The dispute resolution process does not affect the parties’ ability to exercise a termination right.

### Termination by the department

The Service agreement can be terminated immediately if:

* an insolvency event occurs in relation to the organisation
* in case of an individual, the organisation becomes bankrupt, mentally incapacitated, dies, is incapacitated through illness for more than thirty days or is convicted of a crime punishable by imprisonment
* the organisation has a change in control (being a change in any person who directly or indirectly exercises effective control over the organisation), which the department reasonably believes would negatively affect the organisation’s ability to comply with the Service agreement
* the organisation commits a serious or material breach of the Service agreement, which, in the reasonable opinion of the department, is not capable of remedy
* if the organisation behaves in a way that:

(i) is inconsistent with prevailing community standards; or

(ii) may be regarded by the public as unacceptable; or

(iii) may bring the reputation of the organisation into disrepute; and

the department believes that its continued association with the organisation may be detrimental to the reputation of the department; or

* the organisation breaches an essential term of the Service agreement. Essential terms of the agreement are clauses 3.1(e) [Quality of Service Delivery], 3.6 [Compliance with Standards], 4.4, 4.5, 4.6 and 4.7 [Funding].

If the department does not receive sufficient funds from either the Victorian Parliament or the Commonwealth Government to finance the relevant program or the services, or if there is a change in Victorian Government policy that affects the program or the services, the department may also terminate the Service agreement by giving the organisation at least three months’ written notice.

In these particular circumstances (i.e. where the Service agreement is being terminated due to not receiving sufficient funding or a change in policy), the department will pay reasonable costs (other than loss of profit or income) necessarily incurred and substantiated by the organisation that arise directly from the termination. The organisation must use its best efforts to minimise any such costs arising from termination. The total amount payable by the department to the organisation, if any, will not exceed the total amount of funding that would have been payable under the Service agreement had it not been terminated, less any amount already paid under the Service agreement.

The dispute resolution process (clause 11) can be entered into at any time during termination of the Service agreement (Refer to [Chapter 3.11](#_3.11_Dispute_resolution)). The dispute resolution process does not affect the parties’ ability to exercise a termination right.

### Termination without fault

Either party may terminate the Service agreement with no fault attributed to the organisation or the department. In this case the terminating party must provide at least three months’ written notice to other party. Where this occurs, the party electing to terminate will pay the reasonable costs of the other party that arise directly from the termination (other than loss of profit or income). The non-terminating party must use its best efforts to minimise any such costs arising from termination. The total amount payable by the department on termination without fault will not exceed the total amount of funding that would have been payable under the Service agreement if it had not been terminated (less any amount already paid under the Service agreement).

## 3.15 Transition of services

Where a Service agreement expires or is terminated or where an organisation ceases to deliver services, the department will notify the organisation of the need to hand over to the department or to a third party nominated by the department:

* all records provided to the organisation by the department relating to the delivery of the services
* all records created, managed and maintained relating to the delivery of the services in a format and in a way that allows the records to be quickly and easily accessed, retrieved, reviewed, kept and used by the department or a third party nominated by the department.

The time stated to comply with a handover request above is five business days. However, where an organisation, acting reasonably and in good faith, is unable to comply within five business days, the organisation may make a written request for an extension of time in which to comply. The department will not unreasonably refuse to consent to a requested extension.

Within thirty days of a Service agreement expiring or being terminated or an organisation ceasing to provide services, the organisation is required to provide the department with:

* a financial acquittal detailing all the funding paid to the organisation by the department and funding spent by the organisation (including any unspent funding)
* a copy of the current asset register (described in clause 7 - refer to [Chapter 3.7.2](#_3.7.2_Keeping_an))
* any other outstanding information, documentation or reports the organisation is required to provide to the department under the Service agreement (refer to [Chapter 3.6.2](#_3.6.2_Recordkeeping)).

These obligations in clause 15 will continue for a period of three years after the expiry or termination of the Service agreement.

Organisations are to also provide (and must require any subcontractor engaged by the organisation to provide) all reasonable assistance to transfer all or part of the services, functions and operations provided under the Service agreement to the department or a third party nominated by the department. This assistance may include, for example, answering questions and providing other information as may be reasonably sought.

## 3.16 Intellectual property

Under the Service agreement, ownership of project intellectual property (Project IP) vests in the funded organisation unless the department specifically elects to own the Project IP in accordance with clause 16.

Where the department has not elected to own the Project IP, the organisation grants a license to the department to use the Project IP and other background or third party intellectual property to the extent needed to allow the department to enjoy the full benefit of services and the Service agreement.

In certain circumstances, the department may require Project IP to be owned by the department on behalf of the State of Victoria. If the department proposes to own the Project IP, this may be confirmed with the organisation in writing prior to the relevant services being delivered. However, this is not a prerequisite to the department providing a written notice under clause 16.3.

The department will have regard to the Whole of Victorian Government Intellectual Property Policy ([Intellectual Property Guidelines for the Victorian Public Sector (Version 1](http://www.dtf.vic.gov.au/Publications/Victoria-Economy-publications/Intellectual-Property-Guidelines-for-the-Victorian-Public-Sector-Version-1)) <http://www.dtf.vic.gov.au/Publications/Victoria-Economy-publications/Intellectual-Property-Guidelines-for-the-Victorian-Public-Sector-Version-1> (external link, opens in a new window) when considering whether some or all of the Project IP should be owned by the department.

The intellectual property clause requires that the funded organisation properly manage the Project IP including:

* registering, maintaining the registration of, protecting, managing, exploiting and (as appropriate) commercialising it for the benefit of the Victorian public
* maintaining, improving, enhancing and developing it to the fullest extent reasonably necessary to maintain its usefulness and appropriateness to the organisation and the department for the provision of the services
* using, reproducing, publishing, adapting, disseminating, communicating to the public, broadcasting, and performing it for the benefit of the Victorian public
* complying with all applicable departmental or other Victorian Government policies relating to the Project IP.

## 3.17 Privacy, Data Protection and Protected Disclosures

### Privacy

Sections 3.17.1 – 3.17.7 below provide additional information on the Service agreement clauses related to privacy and privacy requirements under the [Privacy and Data Protection Act 2014 (Vic) (PDP Act)](http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num_act/padpa201460o2014317/) <http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num\_act/padpa201460o2014317/> (external link, opens in a new window) and the [Health Records Act 2001 (Vic) (HR Act)](http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/hra2001144/) <http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/hra2001144/> (external link, opens in a new window):

### Protected Disclosure Act 2012

Section 3.17.8 below provides additional information on Service agreement clauses related to the [Protected Disclosure Act 2012](http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num_act/pda201285o2012279/) <http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num\_act/pda201285o2012279/> (external link, opens in a new window).

### 3.17.1 Overview of privacy requirements

The department and the organisations it funds are both subject to a legislative privacy regime that governs the handling of personal and health information when delivering services.

The [Privacy and Data Protection Act 2014 (Vic) (PDP Act)](http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num_act/padpa201460o2014317/) <http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num\_act/padpa201460o2014317/> (external link, opens in a new window) and the [Health Records Act 2001 (Vic) (HR Act)](http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/hra2001144/) <http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/hra2001144/> (external link, opens in a new window) are in place to protect personal and health information. The Acts contain principles for the collection, use and disclosure of personal and health information.

Organisations funded through a Service agreement are required to submit an annual Service agreement compliance certification (SACC) which includes a question about compliance with information privacy. For more information refer to [Chapter 3.8.1 Reporting and accountability](#_3.8.1_Reporting_and).

The PDP Act covers personal information (excluding health information) which is held by Victorian public sector organisations, and non-government and private sector organisations that are contracted to provide services by the Victorian Government (funded organisations). The HR Act covers health information handled by public, private and community sector organisations.

Clause 17 of the Service agreement requires funded organisations to comply with both the PDP Act and the HR Act and any applicable code of practice when dealing with personal and health information.

Funded organisations must collect, use and disclose information in accordance with the Information Privacy Principles (IPPs) and Health Privacy Principles (HPPs) outlined in the PDP Act and HR Act respectively.

An organisation’s privacy policy and procedures should reflect these requirements. Broadly, in delivering services under a Service agreement, an organisations must:

* comply with the HPPs or IPPs
* only collect information if it is needed for the performance of one or more of its functions or activities under the Service agreement (there are also additional requirements under the HPPs)
* ensure that clients know why their information is being collected and how it will be handled (including notifying clients of the matters described under IPP 1.3 or HPP 1.4). Refer to [3.17.3 - Collection and disclosure of personal and health information](#_3.17.3_Collection_and) for further information.
* use and disclose information only for the primary purpose for which it was collected, or a permitted secondary purpose under IPP 2.1 or HPP 2.2 (see below)
* store information securely and protect it from misuse, loss and unauthorised access, modification or disclosure
* retain information for the period required by the [Public Records Act 1973 (Vic)](http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/pra1973153/) <http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/pra1973153/> (external link, opens in a new window)
* provide individuals with access to their information on request and the ability to correct incorrect information.

An organisation under the Service agreement must also:

* comply with any direction, guideline, determination or recommendation made by the Victorian Information Commissioner or the Health Complaints Commissioner (clause 17.3(g))
* make sure that any person (including any subcontractor) who may deal with personal information or health information is aware of their obligations under the PDP Act and HR Act (clause 17.3(h))
* immediately notify the department if it becomes aware of a breach or potential breach by the organisation (or any person acting on behalf of the organisation) of the organisation’s obligations under the PDP Act and the HR Act (clause 17.3(i))
* in complying with IPP 1.3 and HPP 1.4, ensure individuals whose information is collected by the organisation are aware that:
  + - the department is an organisation which may collect personal and health information (clause 17.3k(i))
    - the organisation may collect and disclose information to the department for specific purposes, including for the purpose of providing its services to the individual and for the department’s auditing and monitoring of the organisation’s recordkeeping
      * unless the personal information is destroyed by the organisation, it will ultimately be disposed of to, or at the direction of, Public Record Office Victoria.

In developing privacy policies and processes, organisations should consider any applicable information sharing and security obligations under other legislation, including but not limited to:

* [Adoption Act 1984 (Vic)](http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/aa1984107/) <http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/aa1984107/> (external link, opens in a new window)
* [Children, Youth and Families Act 2005 (Vic)](http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/cyafa2005252/) <http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/cyafa2005252/> (external link, opens in a new window)
* [Disability Act 2006 (Vic)](http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/da2006121/) <http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/da2006121/> (external link, opens in a new window)
* [Mental Health Act 2014 (Vic)](https://www2.health.vic.gov.au/mental-health/practice-and-service-quality/mental-health-act-2014) <https://www2.health.vic.gov.au/mental-health/practice-and-service-quality/mental-health-act-2014> (external link, opens in a new window)
* [Charter of Human Rights and Responsibilities Act 2006 (Vic)](https://www.humanrightscommission.vic.gov.au/human-rights/the-charter) <https://www.humanrightscommission.vic.gov.au/human-rights/the-charter> (external link, opens in a new window)
* [Public Records Act 1973 (Vic)](http://www7.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/pra1973153/) <http://www7.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/pra1973153/> (external link, opens in a new window).

Organisations should refer to the websites of the [Office of the Victorian Information Commissioner](http://www.cpdp.vic.gov.au/index.php) <https://www.ovic.vic.gov.au/index.php> (external link, opens in a new window) and the [Health Complaints Commissioner](file:///C:\Users\mmil2007\AppData\Local\Temp\notes1F9309\Health%20Complaints%20Commissioner's%20website) <https://hcc.vic.gov.au/> (external link, opens in a new window) for further information on their privacy obligations.

Further information on the IPPs and HPPs is provided in the following sections.

### 3.17.2 Access and correction of personal and health information

Information Privacy Principle (IPP) 6 of the PDP Act and Health Privacy Principle (HPP) 6 of the HR Act contain provisions for individuals to access and correct their own personal information.

Under IPP 6.8, if an individual requests access to, or the correction of personal information held by a funded organisation, the organisation must do one of the following as soon as practicable, but no later than 45 days after receiving the request:

* provide access, or reasons for the denial of access;
* correct the personal information, or provide reasons for the refusal to correct the personal information; or
* provide reasons for the delay in responding to the request for access to or correction of personal information
* Requests for access to and correction of health information held by a funded organisation must be in accordance with HPP 6.

Refer to [Chapter 3.6.3 Freedom of Information](#_3.6.3_Freedom_of) for further information.

### 3.17.3 Collection and disclosure of personal and health information

#### Collection notice

Under Information Privacy Principle (IPP) 1.3 of the PDP Act and Health Privacy Principle (HPP) 1.4 of the HR Act, before, or as soon as practicable after, personal or health information is collected about an individual or from an individual, funded organisations must inform the individual by providing a notice to the individual, informing them of:

* the identity of the organisation and how to contact it
* the fact that the individual is able to gain access to the information
* the purposes for which the information is collected
* to whom (or the types of individuals or organisations to which) the funded organisation usually discloses information of that kind
* any law that requires the particular information to be collected
* the main consequences (if any) for the individual if all or part of the information is not provided.

In complying with IPP 1.3 and HPP 1.4, clause 17.3(k) of the Service agreement specifically requires funded organisations ensure that they make individuals to whom the organisation provides services aware that:

* the department is an organisation to which it may disclose personal and health information to (clause 17.3k(i)
* the organisation may collect and disclose information to the department for specific purposes, including for the purpose of providing its services to the individual and for the department’s auditing and monitoring of the organisation’s recordkeeping
* unless the personal information is destroyed by the organisation, it will ultimately be disposed of to, or at the direction of, Public Record Office Victoria.

A ‘collection notice’ can be provided to an individual through various means, for example, information sheets provided at an initial consultation, a standard telephone script, on an organisation’s website, posters, or brochures.

Giving this notice to individuals helps promote transparency about an organisation’s collection and handling of personal and health information. It also informs individuals about important rights and obligations related to the provision of access to this information.

Information on collection notices can be found on the website of the [Office of the Victorian Information Commissioner](https://www.ovic.vic.gov.au/index.php) <https://www.ovic.vic.gov.au/index.php> (external link, opens in a new window).

#### Use and disclosure of information

Under the IPPs and HPPs, organisations must only use and disclose personal or health information for the primary purpose for which it was collected or for a permitted secondary purpose.

IPP 2.1 and HPP 2.2 permit an organisation to disclose information about an individual for a secondary purpose if:

* the secondary purpose is related (or, in the case of sensitive personal information and health information, directly related) to the primary purpose for which the information was collected
* the relevant individual to whom the information relates would reasonably expect the organisation to disclose the information for that secondary purpose.

There are other circumstances where disclosure of information may be permitted. For example, IPP 2.1(d) permits the use or disclosure of personal information where the organisation reasonably believes that the use or disclosure is necessary to lessen or prevent a serious risk to the life, health, safety or welfare of an individual, or a serious threat to public health, safety or welfare.

Under the Service agreement, the department is entitled to access records related to funded services for purposes defined in the Service agreement, and retains legal ownership of records (clause 6.6 and clause 6.9). The department will only use personal and health information in accordance with relevant privacy and other laws and will take reasonable measures to ensure that any information disclosed to it from an organisation is treated in a way that does not breach those laws.

### 3.17.4 Security of personal and health information

Contracted Service Providers have long-standing privacy obligations under Information Privacy Principle (IPP) 4.1 of the PDP Act and/or Health Privacy Principle (HPP) 4.1 of the HR Act. This means that an organisation is required to take reasonable steps to protect the personal and/or health information it holds from misuse, loss, and unauthorised access, modification or disclosure.

An organisation needs to secure personal information from its creation (when the data is first recorded), through any transformation (such as from paper to electronic form), during its transmission (whether physically carried or sent digitally through a computer network), and while it is held (for example, text messages stored in a mobile phone) Organisations should refer to the website of the Office of the [Victorian Information Commissioner](file:///C:\Users\smor2603\AppData\Local\Temp\notes0F026D\Victorian%20Information%20Commissioner's%20website) <https://www.ovic.vic.gov.au/> (external link, opens in a new window) for information in relation to data security.

An organisation’s obligations to protect and keep information secure under IPP 4.1 and HPP 4.1 will continue for as long as an organisation holds the information, and until the time the information is disposed of in accordance with IPP 4.2, HPP 4.2 and HPP 4.5 (as the context requires) and any other relevant laws, such as the *Public Records Act 1973 (Vic)*.

In deciding what reasonable steps to take to protect personal information, the Office of the Victorian Information Commissioner suggests that the following factors should be considered:

* the nature or sensitivity of the personal information concerned
* the likelihood of a security breach occurring
* the gravity of any harm to an individual if a security breach occurs.

The Office of the Victorian Information Commissioner has released a guideline to assist organisations comply with IPP 4.1. Contracted service providers are strongly encouraged to review the [Guidelines to protecting the security of personal information: ‘Reasonable steps’ under Information Privacy Principle 4.1](https://www.cpdp.vic.gov.au/images/content/pdf/privacy_guidelines/IPP_4_Guidelines.pdf), <https://www.cpdp.vic.gov.au/images/content/pdf/privacy\_guidelines/IPP\_4\_Guidelines.pdf> (external link, opens in a new window) and implement the recommended information security controls.

Part 4 of the PDP Act requires the Victorian Information Commissioner to develop a Victorian Protective Data Security Framework for monitoring and assuring the security of public sector data. Under Part 4 of the Act the Information Commissioner may issue Standards consistent with the Victorian Protective Data Security Framework for the security, confidentiality and integrity of public sector data and access to public sector data. The Framework and Standards are available on the website of the Office of the Victorian Information Commissioner relating to [privacy and data protection](https://www.cpdp.vic.gov.au/menu-data-security/victorian-protective-data-security-framework/vpdsf)  <https://www.cpdp.vic.gov.au/menu-data-security/victorian-protective-data-security-framework/vpdsf> (external link, opens in a new window).

Within two years after the issue of applicable Protective Data Security Standards by the Information Commissioner, the department is required to develop a Protective Data Security Plan that addresses the Standards applicable to the department. Among other things, any Protective Data Security Plan developed for the department must address compliance by the department’s contracted service providers with the relevant Standards that apply to the department, to the extent that those providers collect, hold, use, manage, disclose or transfer public sector data for the department.

Clause 17.2 of the Service agreement provides that a funded organisation is bound by any applicable Protective Data Security Standards issued by the Information Commissioner and any provision of a Protective Data Security Plan developed for the department that applies to the organisation.

Having an effective recordkeeping system ([Chapter 3.6](#_3.6_Recordkeeping)) is a necessary step in ensuring that data is secured. By implementing and maintaining an effective recordkeeping system, an organisation should be able to properly categorise and store records, and ensure appropriate access to records.

Funded organisations are to implement safeguards that are appropriate and proportionate to the likely risk of a security breach and the gravity of harm that may result. Information risk management should be incorporated into an organisation’s broader risk management approach.

#### Resources on information security

As an initial cybersecurity baseline funded agencies should implement the Australian Government's [ASD Essential Eight](https://www.asd.gov.au/publications/protect/essential-eight-explained.htm) <https://www.asd.gov.au/publications/protect/essential-eight-explained.htm> (external link, opens in a new window). This involves an assessment of compliance with the Essential Eight and plans to remediate any identified gaps. Free resources include a free [maturity model assessment tool](https://www.asd.gov.au/publications/protect/essential-eight-maturity-model.htm) <https://www.asd.gov.au/publications/protect/essential-eight-maturity-model.htm> (external link, opens in a new window).

Funded Agencies should also subscribe to the [Stay Smart Online](https://www.staysmartonline.gov.au/) <https://www.staysmartonline.gov.au/> (external link, opens in a new window) service.

The Funded agency channel links to the [ImproveIT site](https://improveit.org/) <https://improveit.org/> (external link, opens in a new window) which was developed to help non-profit and community organisations make the most of IT.

The [Office of the Victorian Information Commissioner website](https://www.ovic.vic.gov.au/) <https://www.ovic.vic.gov.au/> (external link, opens in a new window) also has a range of guides on information security, including guides on the use of cloud computing, email disclaimers, and mobile phone usage.

### 3.17.5 Staff awareness and training in privacy, data protection and health information security

Funded organisations are to ensure that staff who handle personal and health information receive training on their privacy and data protection responsibilities, in particular how the Information Privacy Principles and the Health Privacy Principles apply to their day-to-day work. Organisations are also to make staff aware of the information security processes used by the organisation.

The department has developed guidelines on Information Security to support organisations to provide their staff with data security training and help protect information kept by organisations from misuse, loss and unauthorised access, modification or disclosure. The [Privacy and information security guideline for funded agency staff](https://dhhs.vic.gov.au/privacy-and-information-security-guideline-funded-agency-staff) <https://dhhs.vic.gov.au/privacy-and-information-security-guideline-funded-agency-staff>(external link, opens in a new window)cover handling, sharing, storing, transporting and disposing of client information as well as incident response and contact details if organisations require further information.

Other resources to assist organisations increase staff awareness of privacy and data protection requirements include:

* The [Victorian Information Commissioner website](hthttps://www.ovic.vic.gov.au/) <https://www.ovic.vic.gov.au/> (external link opens in a new window) offers training services and resources.
* The [Health Complaints Commissioner website](https://hcc.vic.gov.au/) <https://hcc.vic.gov.au/> (external link opens in a new window) offers training for healthcare providers and staff.
* [Stay Smart Online](https://www.staysmartonline.gov.au/protect-your-business) <https://www.staysmartonline.gov.au/> (external link opens in a new window) is a website developed by the Commonwealth Attorney-General’s Department. It provides simple steps to stay safe online including top tips, fact sheets, checklists, and a self-assessment tool.

### 3.17.6 Information on privacy complaints

Individuals can lodge a complaint to the Office of the Commissioner for Privacy and Data Protection or the Office of the Health Services Commissioner about an organisation’s handling of their personal or health information. Before making a complaint to either Commissioner, it is likely that the individual will have directly complained to the organisation.

Information about complaints made to the Privacy and Data Protection Commissioner can be found on the [Office of the Commissioner for Privacy and Data Protection](https://www.cpdp.vic.gov.au/index.php) <https://www.cpdp.vic.gov.au/index.php> (external link, opens in a new window) website.

Information about complaints made to the Health Services Commissioner can be found on the Office of the [Health Services Commissioner](https://hcc.vic.gov.au/) <https://hcc.vic.gov.au/> (external link, opens in a new window) website.

#### Department of Health and Human Services

Where the Department of Health and Human Services receives a privacy complaint from an individual about a funded organisation, the department will provide written notification to the organisation asking the organisation to investigate the complaint and provide the department with a written response to the complainant.

### 3.17.7 Privacy contact information

For further details on privacy, including the department's privacy policy and a summary of the privacy principles, go to:

* [Department of Health and Human Services (human services)](https://dhhs.vic.gov.au/department-health-and-human-services-privacy-policy) <https://dhhs.vic.gov.au/department-health-and-human-services-privacy-policy> (external link, opens in a new window)
* [Department of Health and Human Services (health)](https://www2.health.vic.gov.au/privacy) <https://www2.health.vic.gov.au/privacy> (external link, opens in a new window)
* [Department of Education and Training](http://www.education.vic.gov.au/Pages/privacy.aspx?Redirect=1) <http://www.education.vic.gov.au/Pages/privacy.aspx?Redirect=>1> (external link, opens in a new window).

The Department of Health and Human Services Privacy Team can be contacted on:

*Privacy Team*

*Postal Address: GPO BOX 4057, MELBOURNE, VIC 3001*

*Street Address: 50 Lonsdale Street, MELBOURNE, VIC 3000*

*Phone: 9096 0888*

*Email:* [privacy@dhhs.vic.gov.au](mailto:privacy@dhhs.vic.gov.au)

The Department of Education and Training FOI and Privacy team can be contacted on:

*Information and Knowledge Management Branch  
Department of Education and Training  
Level 3, 2 Treasury Place East Melbourne 3002  
Telephone: 9637 2670  
Email:* [foi@edumail.vic.gov.au](mailto:foi@edumail.vic.gov.au)

For general information about information privacy, organisations can contact:

*Office of the Victorian Commissioner for Privacy and Data Protection   
Level 6, 121 Exhibition Street  
Melbourne VIC 3000.  
Telephone: 1300 666 444  
Website:* [http://www.cpdp.vic.gov.au](http://www.cpdp.vic.gov.au/) *<http://www.cpdp.vic.gov.au/> (external link, opens in a new window)*

For general information about health privacy, organisations can contact:

*Office of the Health Services Commissioner  
Level 26, 570 Bourke Street  
Melbourne VIC 3000.  
Telephone: 1800 582 113  
Website:* <https://hcc.vic.gov.au/> <https://hcc.vic.gov.au/> *(external link)*

For specific advice concerning information privacy or health privacy, funded organisations should seek independent legal advice.

### 3.17.8 Protected Disclosure Act 2012

The [Protected Disclosure Act 2012](http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num_act/pda201285o2012279/) <http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num\_act/pda201285o2012279/> (external link, opens in a new window) provides for the disclosure of improper conduct by public bodies and public officials and the protection for those who come forward with a disclosure. It also provides for the investigation of disclosures that meet the legislative definition of a protected disclosure.

The purposes of the Act are to:

* encourage and facilitate disclosures of improper conduct by public officers, public bodies and other persons, and of detrimental action taken in reprisal for making a disclosure
* provide protection for persons who make disclosures and persons who may suffer detrimental action in reprisal for making a disclosure
* provide for the confidentiality of the content of disclosures and the identity of persons who make those disclosures.

The Act recognises that improper or corrupt conduct by employees, officers or other staff within the public sector, or actions that involve reprisals against any person making a protected disclosure, will not be tolerated.

'Improper conduct' is defined as corrupt conduct, or certain ‘specified conduct’ that is not corrupt conduct but that if proved, the conduct would constitute:

* a criminal offence, or
* reasonable grounds for dismissing or dispensing with, or otherwise terminating, the services of the officer who was, or is, engaged in that conduct.

Specified conduct is conduct—

(a) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or

(b) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or

(c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or

(d) of a public officer or public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or

(e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c) or (d); or

(f) of a public officer or public body in his or her capacity as a public officer or its capacity as a public body that—

(i) involves substantial mismanagement of public resources; or  
(ii) involves substantial risk to public health or safety; or  
(iii) involves substantial risk to the environment.

Every public body, including departments and their associated statutory authorities, must establish a set of written procedures to facilitate the making of disclosures under the Act, investigate the disclosed matters, and protect the maker of the protected disclosure from reprisals. If your organisation meets the definition of a 'public body' under the Act, your organisation is required to comply with the Act. Public bodies within the meaning of the Act include (but are not limited to):

* public sector bodies within the meaning of section 4(1) of [the Public Administration Act 2004](http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/paa2004230/) <http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/paa2004230/> (external link, opens in a new window) (including Department Health and Human Services)
* bodies, whether corporate or unincorporated, established by or under an Act for a public purpose, including universities
* bodies that perform a public function on behalf of the State or a public body or public officer (whether under contract or otherwise)
* any other body or entity prescribed as a public body under the Privacy and Data Protection Act 2014 or the Independent Broad-based Anti-corruption Commission Act 2011.

A copy of the [Protected Disclosure Act 2012](http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num_act/pda201285o2012279/) <http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num\_act/pda201285o2012279/> (external link, opens in a new window) can be found at Victorian Legislation and Parliamentary Documents website.

The Independent Broad-Based Anti-corruption Commission’s (IBAC) guidelines in relation to the Act are available on the [IBAC website](http://www.ibac.vic.gov.au/) <http://www.ibac.vic.gov.au/> (external link, opens in a new window).

Further information on protected disclosures is also available on the [Department of Health and Human Services' Protected Disclosures web page](https://providers.dhhs.vic.gov.au/protected-disclosure) <https://providers.dhhs.vic.gov.au/protected-disclosure> (external link, opens in a new window) or by contacting the Department of Health and Human Services' Manager, Corporate Integrity on 9096 8529.

## 3.18 Confidential information

Confidential information provided under the Service agreement must be treated as confidential by the department and the organisation.

If a party has access to the other party’s confidential information, the party who has been given access to the confidential information must not disclose it to a third party without the prior written consent of the other party, unless:

* the disclosure of the confidential information is required by law or by the Service agreement; or
* the disclosure is reasonably required by any persons performing their obligations under the Service agreement; or
* the disclosure is to a party's own professional advisers, or its insurer; or
* if the disclosure of the information is requested by the Auditor-General, the Ombudsman, or the Minister responsible for the portfolio under which the services operate.

Subject to the above, each party to the Service agreement will ensure that any third party to which it discloses confidential information is made aware of the confidential nature of that information.

All Victorian Government contracts and agreements include a provision for disclosure of information about the relevant contract or agreement and the disclosure of confidential information in certain circumstances. In view of this, a permitted disclosure clause (Confidential information) is included in all Service agreements. The clause is consistent with the department's standard tender documents and allows for the disclosure of confidential information in the circumstances described above.

### Publication of Service agreement details

The following is an indicative list of Service agreement details that the department may publish on the [Victorian Government Purchasing Board](http://www.procurement.vic.gov.au/Home) <http://www.procurement.vic.gov.au/Home> (external link, opens in a new window).

#### Contract details

* public body (name of department and division or region)
* contract number (any unique reference number)
* title (contract purpose)
* type of contract (categories of purchase of goods/services; operating and financial leases; revenue lease; construction)
* total value of the contract (value of contract: while $100,000 is the nominal threshold, contracts less than that may be disclosed)
* start date
* expiry date
* status
* United Nations Standard Products and Services Code (UNSPSC)
* description (details of type of service being delivered)
* public body (i.e. department) contact details
  + - contact person (departmental contact person name)
    - email address (departmental contact person's email address)

#### Supplier information

* supplier name
* Australian Business Number (ABN)
* Australian Company Number (ACN)
* Data Universal Numbering System (DUNS) number
* address
* suburb
* state
* post code
* email address

## 3.19 Indemnity

Under the Service agreement all organisations are required to indemnify the department against any liability (which includes costs, damages, expenses and losses) that the department may incur as a result of any claim, arising from a breach of the Service agreement or any law, or any unlawful or negligent act or omission.

Claims may relate to:

(a) loss of or damage to property;  
(b) death or personal injury;  
(c) a breach of any third party’s intellectual property rights;  
(d) a breach of privacy Law; or  
(e) a breach of recordkeeping obligations (see clause 6).

If the organisation’s liability is caused or contributed to by an unlawful or negligent act or omissions by the department or its officers or employees, the organisation's liability will be reduced by the amount that can be attributed to the action of the department or its officers or employees. This excludes contractors of the department (companies or consultants the department has engaged).

## 3.20 Insurance and risk management

### 3.20.1 Insurance

Organisations under the Service agreement are required to have appropriate insurance for their operations and business risks with one or more of the following:

* the Victorian Managed Insurance Authority (see below) or, if the Organisation is a Council within the meaning of the Local Government Act 1989 (Vic), Liability Mutual Insurance; or
* an insurer authorised under the [Insurance Act 1973 (Cth)](https://www.comlaw.gov.au/Series/C1973A00076) <https://www.legislation.gov.au/Series/C1973A00076> (external link, opens in a new window) or
* an insurer approved in writing by the department.

The appropriate insurance coverage must be maintained for the term, and, if the policy is underwritten on a ‘claims made’ basis, the coverage must be further maintained for no less than six years after the completion of the services provided under the Service agreement.

The department can request an organisation to provide proof of its insurance cover.

Organisations should undertake periodic reviews to make sure their operational and business risks are appropriately insured, particularly in relation to public and products liability and professional indemnity risks.

#### Victorian Managed Insurance Authority insurance policies

A significant majority of organisations that enter into a departmental Service agreement are covered under either of two insurance programs arranged and funded by the department:

* Public Healthcare Insurance Program
* Community Service Organisations Insurance Program.

The insurer for both of the programs is the Victorian Managed Insurance Authority (VMIA) and details of the insurance cover provided can be viewed on the [VMIA website](https://www.vmia.vic.gov.au/) <https://www.vmia.vic.gov.au/> (external link, opens in a new window).

Organisations entering into new Service agreements with the department will be notified under which VMIA Insurance program that their risks are covered. The coverage will be funded by the department on behalf of the organisation. The VMIA will send confirmation insurance documentation to organisations including relevant certificates of currency. The Service agreement does not have a clause indicating the range of coverage applicable.

#### Public health care insurance program

The types of public healthcare services covered include:

* health service networks
* public hospitals
* community health centres
* ambulance
* alcohol and drug treatment
* hospice care
* palliative care
* sexual assault centres
  + bush nursing centres.

The insurance program does not cover private for profit medical services, such as private hospitals, day centres, medical clinics and the like.

#### Community service organisations insurance program

The types of community service organisations (CSO) covered for service provision in Victoria and agreed border locations include:

* kindergartens
* youth accommodation
* family support
* residential care
* child protection
* indigenous organisations
* disability accommodation support
* neighbourhood/community houses
* financial counselling
  + community housing.

The insurance program does not cover private for-profit organisations (unless otherwise agreed by the department), organisations which have an interstate based head office, or other organisations which can access the economic benefits of state based or national group insurance programs, which include:

* educational institutions
* local government organisations
* religious denominational bodies
* Salvation Army
* YMCA

#### Insurance for statutory bodies

Statutory bodies funded under a Service agreement which are eligible to be insured by VMIA are covered under the department’s corporate insurance program. The relevant bodies are listed as 'Insured' on the department’s certificates of currency.

#### Consortia insurance arrangements

Departmental insurance programs (including VMIA insurance policies) can be extended to cover all organisations that form part of a consortium funded by the department. The cover is strictly limited to consortium related activities only.

If at least one member of a consortium is an organisation covered under the public healthcare insurance program, then all other members will receive the benefit of the cover under this program. However, if the consortium does not contain an organisation covered under the healthcare insurance program, but contains at least one member covered under the CSO insurance program, then all other members will be covered under the CSO program.

#### Organisations not covered by departmental insurance programs

Organisations that are not eligible for cover under departmental insurance programs are required to arrange appropriate insurance to:

* protect physical assets such as buildings and contents against loss and/or damage
* indemnify the organisation against legal liability for personal injury and/or property damage or other financial loss claims under such policies as:
  + - public/products liability
    - professional indemnity
    - directors' and officers' liability.

Some legislation also requires organisations to have certain types of insurance, such as WorkCover insurance (see the [WorkSafe Victoria website](http://www.worksafe.vic.gov.au/) <https://www.worksafe.vic.gov.au/> (external link, opens in a new window)).

#### Insurance enquiries

Organisations that are unsure of their eligibility for cover under departmental insurance arrangements should contact their departmental Service agreement contact for advice, who as necessary will refer the matter to the department's insurance manager.

Specific enquiries made by organisations on insurance matters should be referred to the VMIA. The [VMIA website](http://www.vmia.vic.gov.au/) <http://www.vmia.vic.gov.au/> (external link, opens in a new window) lists names and contact numbers specific to each departmental insurance program.

### 3.20.2 Risk management

Risk management is an integral part of good management and governance practice.

Among other things, organisations with a Service agreement are required to:

* manage risk in accordance with Australian/New Zealand Risk Management Standard: AS/NZS ISO 31000:2009 (Australian Standard)
* have a chief executive officer or board member of the organisation attest to the department annually that, among other things, its risk management processes are consistent with, and that the organisation has managed risk in accordance with, the Australian Standard.

The risk management declaration is a question in the Service agreement certification compliance (SACC) Form. More information about the SACC is available from the Funded agency channel user guide section.

The Victorian Managed Insurance Authority (VMIA) has supporting resources about risk management.

The SACC is to be made online via the Service agreement Module on [Funded agency channel](https://fac.dhhs.vic.gov.au/) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window). Instructions for accessing the module are available on the [Funded agency channel under User guidelines](https://fac.dhhs.vic.gov.au/my-agency-non-dhhs-staff) <https://fac.dhhs.vic.gov.au/my-agency-non-dhhs-staff> (external link, opens in a new window).

For more information, see [Chapter 3.8.1](#_3.8.1_Reporting_and).

#### Timelines for the SACC

The SACC due date is aligned to an organisation's Financial Accountability Requirements (FAR) due date.

The SACC is due within three months from an organisation's financial operating period, or seven days after an organisation's annual general meeting (AGM), unless otherwise agreed by the department in writing.

For an organisation operating on a financial year basis, the attestation is due by 1 October each year or seven days after the AGM. For organisations operating on a calendar year basis, the SACC is due by 1 April each year, or seven days after the AGM.

If an organisation operates on a different financial operating period, an organisation can add three months from the beginning of its operating period, or seven days after its AGM to determine the SACC due date.

The primary contact of an organisation will be sent a request to complete the online SACC well before the due date. This request will normally be by email. The request will include instructions for accessing and completing the online SACC.

#### Further information

For further information regarding risk management your organisation can also contact VMIA at [contact@vmia.vic.gov.au](mailto:contact@vmia.vic.gov.au).

Staff seeking information relating to SACC, please email: [MonitoringFramework.Helpdesk@dhhs.vic.gov.au](mailto:MonitoringFramework.Helpdesk@dhhs.vic.gov.au).

Please email any questions on the Service agreement and these requirements to [sainfokit@dhhs.vic.gov.au](mailto:sainfokit@dhhs.vic.gov.au)

## 3.21 Variation

### 3.21.1 Variations

A variation is required to effect a change to funding, to deliverables or to other requirements contained in the Service agreement.

Variations must either be agreed in writing by both the organisation and the department, or be evidenced by the organisation continuing to provide services after a proposed variation has been provided to the organisation and the department.

Variations are typically for growth or new services, but can be for other changes, such as changes to funding and performance targets (increases or decreases).

Discussions and negotiations about a variation can be initiated by the departments or the funded organisations.

The annual calendar of events in Chapter 2 provides further detail on standard variation dates. Prior to the 2011-12 financial year, variations were typically bundled into three standard variations each year. This meant that organisations sometimes had to wait several months to receive funding for a new or additional service. From August 2012, variations are processed on a monthly basis, if required, to ensure timely funding of services.

The variation process:

* The department and organisation staff discuss and/or negotiate proposed changes, which may include changes to the service mix, additional or new services, new funding rounds etc.
* Once details of the changes are agreed, department staff reflect these changes in the Service agreement management system (SAMS2).
* Once a department finance officer approves the changes they can then be viewed by authorised organisation staff on the Service agreement Module of the [Funded agency channel](https://fac.dhhs.vic.gov.au) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window) (they show as approved commitments).
* When all changes for an agreement are entered and approved, the amended version of the Service agreement is published and an email is sent to authorised signatories (organisation and department) notifying them of the variation.
* The organisation signatory has five calendar days from the publication date to review the changes. The amended version of the Service agreement will move to contract status and will take effect after the five days, as long as the department signatory has finalised their authorisation.

The variation becomes an addendum to the original Service agreement and forms the revised basis on which the Service agreement will be conducted.

Organisations can view a history of all the variations made to their agreements in a number of ways. These include:

* Viewing the agreements tab on the Service agreement Module of [Funded agency channel](https://fac.dhhs.vic.gov.au) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window). Each new version of the Service agreement will be sequentially numbered. You can select and enter into each version. You can go to the Contracts lower-level tab and view the PDF variation document, a commitments level payment schedule (in Microsoft Excel) and the PDF performance measure report for each agreement version.
* Variation reports on [Funded agency channel](https://fac.dhhs.vic.gov.au) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window).

### 3.21.2 Adjustments

Adjustments are changes to funding levels and targets that do not require negotiation with an organisation when they are made. Adjustments are applied directly to the Service agreement.

Examples of adjustments include:

* Price adjustments made to provide increased funding for indexation. They reflect increased funding for the same service delivery outputs, and are typically applied in July each year with no action required by an organisation.
* Service adjustments for activities where the funding and targets are determined by the volume of service provided (e.g. Kindergarten enrolment numbers, Immunisation numbers).

## 3.22 The department's consent

When requesting the department’s approval or consent under the Service agreement, an organisation will make a request in writing at a reasonable time before the date on which the consent is required. The organisation will also provide any information or documentation related to the request that is required by the department.

The department will provide its response to the organisation within a reasonable time.

The department will provide its approval or consent in writing if it considers it appropriate. That approval or consent may be subject to any terms or conditions.

The organisation will comply with the terms and conditions of any consent given by the department.

## 3.23 Status of organisations

### Legal relationship

The Service agreement sets out the legal relationship between the department and the organisation. It specifies that the organisation and department are not agents of each other and that they cannot incur liability or make representations on behalf of each other.

The agreement specifies that an organisation is solely responsible and liable for paying superannuation, payroll or any other tax, WorkCover levy or any similar payments or entitlements in relation to its employees.

### Legal status of the organisation

To enter into a Service agreement an organisation must be a legal entity, established under a particular legislative framework. Most funded organisations are:

* Incorporated Associations
* Companies
* Cooperatives
* Partnerships
* Entities established under specific Acts of Parliament. These acts are described in more detail in [Chapter 2](#_Chapter_3._Terms).

Organisations must:

* comply with all laws applicable to them
* have an active Australian Business Number (ABN) (if the Organisation is required by law to have an ABN)
* be registered for Goods and Services Tax (GST) if required by law.

Upon request, the organisation must provide the department with evidence of its status. The organisation must notify the department within five working days of any change to its legal status.

Prior to any proposed change of control in the organisation, an organisation will also give written notice and relevant information to the department so that the department has a reasonable amount of time to consider the impact of the proposed change of control. A change of control in the organisation refers to any change in persons who directly or indirectly exercise effective control over the organisation by holding the majority of voting shares, units or other interests in the organisation or by any other means.

Non-government organisations are sovereign entities and do not need to notify the department when there is a change to a single board member if the change does not constitute a change of control.

### Partnership, joint venture or consortium

If the organisation is a partnership, joint venture or consortium of two or more organisations, the organisations are all liable both individually and as a group to the department for the full performance of this agreement.

All members of the partnership, joint venture or consortium will be listed in the Service agreement. All or some may also be signatories to the Service agreement, depending on the governance arrangements applying to the partnership, joint venture or consortium. The department may ask for documentation showing how the partnership, joint venture or consortium operates.

The Service agreement will not terminate automatically on the death, retirement or resignation of one of the members of a partnership.

### Change in control, mergers or acquisitions

To ensure the viability and operational capacity of their business, funded organisations may propose a change in control, a merger or an acquisition.

Information on the responsibility of the organisation and the department is available in the:

* [Guidelines for funded organisations proposing a change in control, a merger or an acquisition](https://fac.dhhs.vic.gov.au/guidelines-funded-organisations-proposing-change-control-merger-or-acquisition) <https://fac.dhhs.vic.gov.au/guidelines-funded-organisations-proposing-change-control-merger-or-acquisition> (external link, opens in a new window)
* [Questionnaire for funded organisations proposing a change in control, a merger or an acquisition](https://fac.dhhs.vic.gov.au/questionnaire-funded-organisations-proposing-change-control-merger-or-acquisition) <https://fac.dhhs.vic.gov.au/questionnaire-funded-organisations-proposing-change-control-merger-or-acquisition> (external link, opens in a new window).

## 3.24 Notices

Any notice, approval or consent from one party to another must be in writing and be signed by an officer who is authorised to sign and legally bind the party it represents.

Varying a Service agreement can only be done in accordance with clause 21 (refer to [Chapter 3.22](#_3.22_The_department's)).

A notice can be delivered by hand, post, fax, and email. The Service agreement sets out when notice will be taken to have occurred. For example, a notice would need to be delivered by 5:00 pm on a business day to be considered as provided on that business day.

## 3.25 Waiver

For rights or obligations of an organisation or the department under the Service agreement to be waived, the party seeking to waive its right is required to do so in writing and to sign the document.

An organisation should contact their program and service adviser or relevant departmental contact officer in the first instance if it wishes to waive a right or request that the department waive a right under the Service agreement.

## 3.26 Survival

The survival clause specifies the rights and obligations of the agreement that continue to apply after the Service agreement is ended, for whatever reason.

These clauses relate to 4.8-4.9 [Funding], 6 [Recordkeeping] 7.2, 7.3, 7.7 and 7.8 [Assets- disposal and transfer], 8 [Reporting], 11 [Dispute Resolution], 15 [Transition of Services], 16 [Intellectual Property], 17 [Privacy and Whistleblowers], 18 [Confidential Information], 19 [Indemnity] and 20 [Insurance and Risk Management].

## 3.27 Early childhood facilities grant – Department of Education and Training only

### This clause appears in Department of Education and Training agreements only.

The Victorian Government is committed to increasing access to high-quality early childhood services for all Victorian children by developing partnerships with parents and communities to develop a sustainable model for early childhood facilities.

The Government invests in a range of early childhood facilities by providing contributory grants for new facilities, upgrades, renovation and refurbishments, as well as minor grants for equipment and information technology products. These grants support services to deliver quality early childhood education and care services to children, their families and the wider community.

Investing in early childhood facilities promotes co-location and integration of a variety of services for children and families that meet local needs in new and existing facilities in order to:

* provide capital funding to promote more integrated and inclusive early childhood services to address the needs of families
* create new opportunities to co-locate early childhood services on or near school sites.
* the expected outcomes of this investment include:
  + - increased infrastructure capacity to deliver 15 hours of high quality kindergarten for all children in the year before school
    - improved access to high quality kindergarten education in the same place as long day care and other services for children and families
    - more services for children and families on or near school sites
    - integrated, inclusive and collaborative early childhood education and care services that provide high quality programs to meet the needs of young children aged 0-8 years.

Grants provided for early childhood facilities support the implementation of a range of early childhood reforms including:

* The National Partnership Agreement on Early Childhood Education's commitment to increase four year old kindergarten to 15 hours by 2013 and improve access to early childhood education for vulnerable children
* The National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care.

More information on the reforms can be found at the [Department of Education and Training website](http://www.education.vic.gov.au/childhood/Pages/default.aspx) <http://www.education.vic.gov.au/childhood/Pages/default.aspx> (external link, opens in a new window).

For more information on the Children's Facilities Capital Program, see the [Department of Education and Training Children's Facilities Capital Program website](http://www.education.vic.gov.au/ecsmanagement/capitalprogram/) <http://www.education.vic.gov.au/ecsmanagement/capitalprogram/> (external link, opens in a new window).

### Early Childhood Facilities - Service agreements

For all early childhood facilities grants valued at $300,000 or under, service providers will not be required to enter into a separate agreement with DET.

The DET 2012-2015 Service agreement templates incorporate terms and conditions that address both service provider and DEECD responsibilities regarding grants for Early Childhood Facilities (Clause 27) along with any guidelines published for the grants. Please note that guidelines for grants and Certificate of Expenditure forms for these grants can be found on the [Children's Facilities Capital Program site](http://www.education.vic.gov.au/ecsmanagement/capitalprogram/) <http://www.education.vic.gov.au/ecsmanagement/capitalprogram/> (external link, opens in a new window).

### Early Childhood Facilities Grant Official Opening Requirements

The State Government actively seeks opportunities to promote its support of early childhood infrastructure projects. To this end, all projects receiving grants over $10,000 are expected to conduct an official opening on completion of their project, as per program guidelines.

Recipients of these grants must comply with the program guidelines on official openings by completing an Official Opening Notification form on completion of their project available at the [Children's Facilities Capital Program site](http://www.education.vic.gov.au/ecsmanagement/capitalprogram/resources.htm) <http://www.education.vic.gov.au/ecsmanagement/capitalprogram/resources.htm> (external link, opens in a new window).

### Early Childhood Facilities Grant Recipient Signage Requirements

The State Government actively seeks opportunities to promote its support of new initiatives. To this end, opportunities for joint signage on capital funded sites (including all projects over $10,000) are sought.

Signage expenses for up to $1000 for each site are included in all early childhood facility grants allocated by DET. Recipients of these grants must comply with the State Government's guidelines on signage that are available at the [Children's Facilities Capital Program site](http://www.education.vic.gov.au/ecsmanagement/capitalprogram/resources.htm) <http://www.education.vic.gov.au/ecsmanagement/capitalprogram/resources.htm> (external link, opens in a new window).

# Chapter 4. Department of Health and Human Service policies, procedures and initiatives

## 4.1 Fire risk management

#### Who does this policy apply to?

This policy applies to all facilities in which the Department Health and Human Services owns, operates or funds which provide bed-based care, support or sleeping accommodation for clients under its care, but does not include typical domestic style dwelling and low, medium or high rise multi-dwelling facilities used for public housing stock for individual rental agreements with tenants or accommodation facilities used as boarding facilities, guest facilities, hostels or the like, or rooming facilities as defined in the Residential Tenancies Act 1997, and crisis accommodation.

#### Policy purpose

* The purpose of this policy is to set minimum standards for documenting and compliance reporting with statutory and Guideline requirements; it also ensures that appropriate fire and emergency response procedures will be in place.
* To manage the risk to life due to fire in certain types of buildings which are owned, operated or funded by the department.

#### Legislation and /or regulation

* [Building Act 1993 as amended](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf/2184e627479f8392ca256da50082bf3e/76fb6fc121677e38ca257624001fb276!OpenDocument) <http://www.legislation.vic.gov.au/Domino/Web\_Notes/LDMS/PubLawToday.nsf/2184e627479f8392ca256da50082bf3e/76fb6fc121677e38ca257624001fb276!OpenDocument> (external link, opens in a new window)
* [Building Interim Regulations 2017 as amended](http://www.legislation.vic.gov.au/domino/Web_notes/LDMS/PubLawToday.nsf/7e27929611f1d5c2ca256dac00186f32/46165cd76bc0dbefca2578c00019c553!OpenDocument) <http://www.legislation.vic.gov.au/domino/Web\_notes/LDMS/PubLawToday.nsf/7e27929611f1d5c2ca256dac00186f32/46165cd76bc0dbefca2578c00019c553!OpenDocument> (external link, opens in a new window)
* National Construction Code Series [Building Code of Australia](file:///C:\Users\skip2402\AppData\Local\Temp\notes73FDFC\Building%20Code%20of%20Australia) <http://www.abcb.gov.au/> (external link, opens in a new window)
* Australian Standard AS3745 – 2010 (Planning for emergencies in facilities)
* Australia Standard AS4083 – 2010 (Planning For Emergencies - Health Care Facilities).

#### Organisation requirements

Chief executives and general managers of services, agencies, networks and other facilities are responsible for ensuring the implementation of appropriate fire risk management measures required to satisfy statutory requirements and the appropriate departmental guidelines.

#### Protecting clients

Protecting clients from fire risk is an important part of their care and of paramount importance to the department. The Service agreement acknowledges that an organisation is responsible for complying with all laws, mandatory standards relating to fire protection, safety, health and general safety that apply to any premises from which the organisation owns or operates, irrespective of whether the relevant regulatory requirements place the obligation on the owner or occupier of those premises. The applicable guidelines for fire risk for department owned, operated or funded buildings/services are the [Capital Development Guidelines, Series 7, Fire Risk Management, August 2013](https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7) <https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7> (external link, opens in a new window).

An organisation entering into a Service agreement must have in place an appropriate system to protect people under its care. For this reason, the department is keen to clarify its role and the role of the organisation in protecting the department's clients from fire risk.

Fire Safety Audit

Every facilities must conduct regular fire safety audits in accordance with the requirements of the [Capital Development Guidelines, Series 7, Fire Risk Management, August 2013](https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7) <https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7> (external link, opens in a new window) at least once every five years (or as required by the Fire Risk Management Review Panel, as defined in the Guidelines) to monitor ongoing compliance, and whenever a modification or addition is proposed to be made to the building. A fire safety audit can only be undertaken by a practitioner who is accredited to undertake fire safety audits. Accreditation may be limited to specific building or buildings and/or occupancy types.

Fire Safety Handbook

Every facility must have a fire safety handbook which is a unique document for each building or facility that defines the fire safety strategy for that building in terms of the required levels of compliance, performance, design parameters and maintenance requirements for each physical or human measure/factor. The department’s website has the required template for the [Fire Safety Handbook](https://providers.dhhs.vic.gov.au/fire-safety-handbook) <https://providers.dhhs.vic.gov.au/fire-safety-handbook> (external link, opens in a new window).

The [Occupational Health and Safety Act 2004](http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/ohasa2004273/) <http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/ohasa2004273/> (external link, opens in a new window) as amended (OHSA) and case law provide that what is ‘reasonably practicable’ is that which is reasonably able to be done at the particular time and in a particular circumstance. This is to be determined by taking into consideration to all relevant matters including the following:

(a) likelihood of the hazard or risk eventuating

(b) degree of harm that would result if the hazard or risk eventuated

(c) knowledge, including what a person ought to know, about the hazard or risk and any ways of eliminating or reducing the hazard or risk

(d) availability and suitability of ways to eliminate or reduce the hazard or risk

(e) cost of eliminating or reducing that hazard or risk.

The severest degree of harm that may result from a fire can be multiple fatalities. In light of this, considerable efforts should be made to eliminate or minimise the likelihood of a fire occurring (for example, through choice of building materials and regulation of activities within buildings) and to eliminate or minimise harm to the health and safety of people from the fire (for example, through fire suppression and timely evacuation).

Services provided in own home

For services provided to a client in their own primary residence (whether leased or owned by the client), the department expects that the client (and where appropriate, the owner of the premises) will have responsibility for their own fire safety and ensure that the premises meet all relevant building local laws and regulations or legislation, including retrospective obligations.

The department notes that the relevant authorities (for example, local councils and fire authorities, Metropolitan Fire and Emergency Services Board and Country Fire Authority) are responsible for enforcement of fire safety provisions.

Responsibility for a client's fire safety is not specifically part of the funded service but is implied through common law or other duty of care requirements.

Other services

For services other than in the client's home, the organisation is required to ensure that the people in its care are appropriately protected from fire risk. This includes premises, operational readiness and client placement.

Premises

The department expects that the premises meet the relevant building local laws, regulations or legislation in force at the time of construction, including provisions that apply retrospectively (for example, requirement for smoke alarms and fire sprinklers). Any subsequent building works must meet the relevant building permit provisions at the corresponding time.

Where this is not the case, or where the organisation determines that the premises do not provide an appropriate level of fire safety, the organisation is expected to ensure that the premises are brought up to minimum regulatory standard and in compliance with the [Capital Development Guidelines, Series 7, Fire Risk Management, August 2013](https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7) <https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7> (external link, opens in a new window).

Operational readiness

The organisation must ensure that appropriate operational readiness measures are developed, implemented and reviewed. This includes (but is not limited to) fire emergency management and evacuation procedures, training of staff to implement the procedures developed, and maintenance of fire safety systems.

Management Tasks

The organisation must ensure that appropriate fire safety readiness measures are developed, implemented and reviewed. This includes:

* holding a current fire risk audit that is less than 5 years old
* fire emergency management and evacuation procedures
* training of staff to implement the procedures developed
* maintenance of all the fire safety systems and any deviations through an alternative solution
* holding or having access to a current Fire Safety Handbook as defined in the current [Capital Development Guidelines Series 7, Fire Risk Management, August 2013](https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7) <https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7> (external link, opens in a new window).

It is expected that an organisation prepares for, responds to, and recovers from, emergencies in accordance with the 'all hazards' approach. This includes, but is not limited to, fire, bushfire, flood, relocation, evacuation and prolonged service interruption.

Additionally, the organisation must ensure essential safety measures (as defined in the Building regulations) are adequately maintained, and an annual essential safety measures report is prepared each anniversary after the date of the relevant occupancy permit for the building.

Client placement

Where the **organisation selects the clients** for bed based services, the organisation must determine whether the premises are suitable for the client to be evacuated safely, taking into account the fire systems installed and the capacity of the client to evacuate. Where changes occur that may affect the client's ongoing ability to evacuate safely, the suitability of the placement must be reassessed immediately and appropriate action taken as soon as possible.

Where the **organisation does not select the clients**, the organisation is still required to monitor any relevant changes that may affect the client's ongoing ability to evacuate safely, assess the suitability of the placement, and take appropriate action as soon as possible.

#### Table 1 Fire safety - additional requirements

| Standard No. | Name of Standard | Application (summarised - see Figure 1) | Departmental Guideline accompanying the standard | Fire Safety Certificate No. |
| --- | --- | --- | --- | --- |
| 1 | Lead Tenant/Home Based Care Services Fire Safety Standard | Lead tenant services - otherwise Standard No.5 applies.  Bed based service provided in carer's private home and only to clients that are related - otherwise Standard No.5 applies. | Not applicable | Not required |
| 2 | Support Service Only Fire Safety Standard | Service provided to a person in their private home (owned or leased) and excludes shared accommodation by unrelated clients – otherwise Standard No.5 applies. | Not applicable | Not required |
| 3 | Relevant Authorities Fire Safety Standard | Bed based service intended for non-statutory clients in either government or non-government owned premise, either with or without 24 hour rostered/live in staff support or supervision. | Capital Development Guidelines, Series 7, Fire Risk Management, August 2013 | [Fire Safety Compliance - Certificate No. 3](https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-3-word) <https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-3-word> (external link, opens in a new window) |
| 4 | Department's Fire Risk Management Standard | Premises owned or leased by the State Government provided with bed based services receiving rostered/live-in staff support or supervision and intended to house statutory clients. | Capital Development Guidelines, Series 7, Fire Risk Management | [Fire Safety Compliance - Certificate No. 4](http://www.dhs.vic.gov.au/__data/assets/word_doc/0010/719614/Fire-Safety-Certificate-No.4-080429.doc) <https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-4-word> (external link, opens in a new window) |
| 5 | Non-Government Organisation Premises Fire Safety Standard | Premises (not a private home) owned or leased by organisations with bed based service receiving rostered/live-in staff support or supervision intended to house statutory clients. | Capital Development Guidelines, Series 7, Fire Risk Management, August 2013 | [Fire Safety Compliance - Certificate No. 5](https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-5-word) <https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-5-word> (external link, opens in a new window) |
| 6 | Hospitals | Public or Private hospitals | Capital Development Guidelines, Series 7, Fire Risk Management | [Fire Safety Compliance - Certificate No. 6](https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-6-health-service-pdf) <https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-6-health-service-pdf> (external link, opens in a new window) |

To check which standard applies, see [Figure 1](#_Figure_1_Determining).

If you have any questions about the application of fire safety standards in the premises from which services are delivered to clients, contact your assigned Local Engagement Officer (LEO) in the Agency Connections Team of the Division or other contacts as allocated by the department.

Compliance certification process

The CEO (or equivalent) of an organisation that provides bed based services (under standards 3, 4, 5 and 6 see table 1) is required to complete and provide the department with the relevant fire safety certificates as part of the Service agreement process. Even though the Service agreement is for a three year period, the certificates must be completed annually. This ensures that the organisation provides certification to the department that they have checked all relevant services and that they meet, and will continue to meet, the department's fire safety requirements. The CEO must have appropriate procedures in place to ensure ongoing maintenance and reporting.

The annual certificates to be used are included on the forms and certificates page of this site.

Certificates covering each financial year (1 July to 30 June) must be received by **1 September** in the following financial year or at a date agreed in writing with the department.

Fire damage to asset report

Organisations are required to provide ‘fire damage to asset reports’ to DHHS. Fire damage to asset reports will be accessible from the [Funded agency channel](https://fac.dhhs.vic.gov.au/policies-and-procedures) <https://fac.dhhs.vic.gov.au/policies-and-procedures> (external link, opens in a new window) and are to be lodged as soon as possible after the incident.

Fire incident and false alarm reports - incident reports

Organisations are required to provide fire incident and false alarm reports to the department following the department's incident reporting instruction and reporting process. See [Chapter 4.3](#_4.3_Incident_reporting) further information.

Definitions

**Bed based service:** A service contracted to provide overnight accommodation for clients.

**Client:** Has the same meaning as that defined in the [Capital Development Guidelines, Series 7, Fire Risk Management, August 2013](https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7) <https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7> (external link, opens in a new window) or as amended.

**Lead tenant:** A service which provides semi-independent accommodation in a household for people who are in transition to independent living using a live-in volunteer to facilitate a supportive environment.

**Private home or residence:** A home owned by the occupant(s), or a home formally or informally leased by the occupant(s).

**Statutory client:** Clients for whom the department has custody or guardianship. Clients may receive services pursuant to the [Disability Act 2006](https://services.dhhs.vic.gov.au/disability-act-2006) <https://services.dhhs.vic.gov.au/disability-act-2006> (external link, opens in a new window) or the [Children, Youth and Families Act 2005](http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/cyafa2005252/) <http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/cyafa2005252/> (external link, opens in a new window).

**24 hour support or supervision:** Staff support or supervision is provided whenever clients are in residence and includes active night rosters, sleepover rosters and the 24 hour worker model.

#### Figure 1 Determining appropriate fire safety standards

Start;
Is it a private home or Lead Tenant? 
Yes, Lead tenant or Carers private home i.e. foster care refer to Fire Safety Standard 1. 
Yes, Bed based service provided in service recipient's private home and only to clients that are related i.e. In home respite, outreach services refer to Fire Safety Standard 2. 
Yes, but not any of the above i.e. unrelated clients sharing accommodation in a home with other funded clients refer to Fire Safety Standard 5 'Certificate number 5';
No;
Is the contracted services 'bed based'?
No e.g. day education services, adult education. Refer to General requirements (refer to 'other services').
Yes;
Do rostered staff or live in staff provide 24 hour support or supervision to statutory clients?
No e.g. bed based services provided for non-statutory clients, some Disability Services with day support, but not staffed overnight. Refer to Relevant authorities Fire Safety Standard 3 'Certificate 3'.
Yes; 
Are the premises owned, operated or leased by the Crown, DHHS, Director of Housing, a Statutory Authority to accommodate statutory clients? 
Yes, e.g. Department owned, operated or funded facilities, Communit houses programs, Disability, Children Youth residential properties. Refer to 'Fire Risk Management Fire Safety Standard 4 'Certificate No 4''.
No; 
Are the premises owned, operated or leased by a Non Government organisation or body to accommodate statutory clients?
Yes, e.g. NGO owned, operated or leased, Disability Children Youth residential congregate care community living. Refer to Funded organisation premises Fire Safety Standard 5 'Certificate No 5'.

### Fire safety standards

#### Lead tenant / Home based care services fire safety standard (Standard No. 1)

Application

Type of service:

Services provided from carer's private home (whether owned or leased by the carer) or Lead tenant.

A situation involving two or more unrelated statutory clients or clients (funding provided by the department) who are provided services by the carer in the carer owned or leased premises, is considered as a Non-Government Organisation Premises Fire Safety Standard ([Standard No. 5](#_Funded_organisation_(owned) below).

Specifications

The organisation is required to make certain that persons under its care are appropriately protected from the risk of fire. This protection includes:

* obtaining an assurance from the building owner that smoke alarms have been installed in accordance with the requirements of the Building Regulations
* implementing strategies in response to clients with known or suspected fire lighting tendencies. This includes:
  + seeking assessment for the person, to determine the severity of the behaviour and the likely risks
  + identifying strategies for managing and modifying the behaviour and addressing related causal issues, as part of the Case Plan and Individual Plan
  + actively implementing these strategies
  + referral to appropriate services to modify fire lighting behaviour to a safe level
  + ensuring an adequate level of fire safety management in the household.

**Client placement**

Where the organisation selects the clients, the organisation must determine whether the premises are suitable for the client to be evacuated safely, taking into account any fire safety systems installed, and the evacuation capacities of the client. Where changes may affect the client's ongoing ability to evacuate safely, the suitability of the placement must be reassessed and appropriate action taken.

Where the organisation does not select the clients, the organisation must still monitor any relevant changes that may affect the client's ongoing ability to evacuate safely, assess the suitability of the placement, and take appropriate action.

#### Support Service only Fire Safety Standard (Standard No. 2)

**Application**

Type of service:

Services provided to clients in their private home (whether leased or owned by the client).

A situation of shared accommodation (two or more) by unrelated statutory clients or client’s (funding provided by the department) in owned or leased premises is considered as a Non-Government Organisation Premises Fire safety Standard ([Standard No. 5](#_Funded_organisation_(owned) below).

**Specifications**

The department expects that the client (and where appropriate the owner of the premises) is responsible for their own fire safety and ensuring that the premises meet all relevant building local laws, regulations or legislation, including those that apply retrospectively.

The department notes that the relevant statutory authorities (for example, local councils) are charged with enforcing fire safety provisions.

The responsibility for a client's fire safety is not specifically part of the service purchased from the organisation, but is implied through common law (or other duty of care) requirements.

**Client placement**

The relevant organisation must determine whether the lead tenant premises are suitable for young people to be evacuated safely and must take into account the individual capacity of each young person to evacuate. Young people with any history of fire-lighting behaviours must be assessed to determine the currency of the behaviour and the level of risk. Where it is determined that a young person is at risk of lighting fires, they are not suitable to be placed in lead tenant accommodation.

Where a young person or lead tenant has a condition (temporary or ongoing) that would impede their capacity to evacuate safely, the placement must be reassessed immediately and appropriate action taken as soon as possible by the organisation.

#### Relevant Authorities Fire Safety Standard (Standard No. 3)

**Application**

Type of service:

Bed based with 24 hours rostered/live-in staff support/supervision.

State government owned or Non-government owned premises (but not a private home) where the department's Fire Risk Management Standard has not been specified or the service is not intended specifically to house statutory clients or clients provided with 24 hour care funding.

May include some disability, placement and support and bed-based overnight respite residential services.

**Specifications**

The organisation is required to make certain that the persons in its care are appropriately protected from risk from fire. This protection includes:

* **Premises** - the department expects that the premises meet all relevant building local laws, regulations or legislation, including provisions that apply retrospectively (for example, requirement for smoke alarms). It is expected that the premises were constructed to meet the requirements of relevant building by-Laws, regulations or legislation in force at the time of construction and that building works have been undertaken in accordance with relevant building approval provisions since that time.
* Where this is not the case, or where the organisation otherwise determines that the premises do not meet a standard which provides an appropriate level of fire safety, the organisation is expected to ensure that the premises are brought up to provide an appropriate level of fire safety protection.
* The department notes that the relevant statutory authorities (for example, local councils and fire authorities Melbourne Fire Brigade and Country Fire Authority) are responsible for the enforcement of fire safety provisions.

\* In each case a reference to premises refers to those premises from which the service (which is subject to this Service agreement) is provided.

* **Operational readiness** - the organisation must ensure that appropriate operational readiness measures are developed, implemented and reviewed. This includes (but is not limited to) development of fire emergency management and evacuation procedures, training of staff to implement the procedures developed, and maintenance of fire safety systems.
* **Maintenance of essential safety measures** - the organisation shall ensure that all Essential Safety Measures (including all fire safety equipment/systems) are being adequately maintained, in accordance with the Building Regulations.
* Completion of the [Weekly checklist](https://providers.dhhs.vic.gov.au/fire-safety-equipment-weekly-checklist-community-service-organisations-word) <https://providers.dhhs.vic.gov.au/fire-safety-equipment-weekly-checklist-community-service-organisations-word> (external link, opens in a new window) will assist in providing documentation to support completion of the annual Essential Safety Measures Report.
* **Client placement** - Where the organisation selects the clients, the organisation must determine whether the premises are suitable for the client to be evacuated safely, taking into account any fire safety systems installed and the evacuation capacities of the client. Where any relevant change may affect the client's ongoing ability to evacuate safely, the suitability of the placement must be immediately reassessed and appropriate action taken as soon as possible.
* Where the organisation does not select the clients, the organisation must still monitor any relevant changes that may affect the client's ongoing ability to evacuate safely, assess the suitability of the placement, and take appropriate action as soon as possible.
* **Fire Safety Certification** - [Fire Safety Compliance - Certificate No. 3](https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-3-word) <https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-3-word> (external link, opens in a new window) must be returned by 1 September in the following financial year or by a date to be agreed between the organisation and the department's assigned Local Engagement Officer (LEO) in the Agency Connections Team of the Division. This date will take into account any relevant upgrade works that are scheduled.

#### The department's fire risk management standard (Standard No. 4)

**Application**

Type of service:

Bed based with rostered/live-in staff support/supervision. May include disability (including respite), placement and support, secure welfare, juvenile justice, secure facilities and residential services.

**Premises**

Owned or leased by the State Government (the Crown, the Secretary of the department or the Director of Housing), but **not** rental general stock (RGS).

**Accompanying document**

[Capital Development Guidelines, Series 7, Fire Risk Management, August 2013](https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7) <https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7> (external link, opens in a new window) are the relevant guidelines applicable for specific occupancy types for which the organisation has responsibility.

**Specifications**

The organisation is required to make certain that persons in its care are appropriately protected from risk from fire. This protection includes:

* **Premises** - the department will fulfil its responsibilities as owner of the premises by upgrading the premises to meet the requirements of [Capital Development Guidelines, Series 7, Fire Risk Management, August 2013](https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7) <https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7> (external link, opens in a new window) (as amended from time to time) applicable to the premises\*.
* The organisation must ensure that any non-compliance with these guidelines that it becomes aware of is reported to the building owner (the appropriate representative of the Crown, the Secretary or the Director of Housing, as relevant) so that remedial action may be taken.

\* In each case a reference to premises refers to those premises from which the service (which is subject to this Service agreement) is provided.

* **Operational readiness** - the organisation must ensure that appropriate operational readiness measures are developed, implemented and reviewed as a minimum in accordance with Australian Standards: AS 4083-2010, Planning for emergencies - Health care facilities as appropriate. This includes (but is not limited to) development of fire emergency management and evacuation procedures, training of staff to implement the procedures developed, and conducting regular evacuation drills.
* For organisations providing disability and/or placement and support residential services, operational readiness measures shall be in accordance with the department's Fire and Emergency Response Procedures and Training Framework (as amended from time to time). The framework can be accessed on the department's website (Publications section under the heading of Fire Risk Management, 'Fire and Emergency Response Procedures and Training Framework').
* **Maintenance of Essential Safety Measures** - the department will fulfil its responsibilities as owner of the premises by maintaining fire safety systems. The organisation must ensure that any factor that may affect the performance or operation of fire safety equipment, fire safety fittings, fire safety measures, exits and essential services that it becomes aware of is reported to the building owner.
* Completing the [Weekly checklist](https://providers.dhhs.vic.gov.au/fire-safety-equipment-weekly-checklist-community-service-organisations-word) <https://providers.dhhs.vic.gov.au/fire-safety-equipment-weekly-checklist-community-service-organisations-word> (external link, opens in a new window), will assist in providing documentation to substantiate adequate maintenance of essential safety measures.
* **Client placement** - Where the organisation selects the clients, the organisation must determine whether the premises are suitable for the client to be evacuated safely, taking into account any fire safety systems installed and the evacuation capacities of the client. Where any relevant change may affect the client's ongoing ability to evacuate safely, the suitability of the placement must be reassessed immediately and appropriate action taken as soon as possible.
* Where the organisation does not select the clients, the organisation must still monitor any relevant changes that may affect the client's ongoing ability to evacuate safely, assess the suitability of the placement, and take appropriate action as soon as possible.
* **Fire Safety Certification** - [Fire Safety Compliance - Certificate No. 4](http://www.dhs.vic.gov.au/__data/assets/word_doc/0010/719614/Fire-Safety-Certificate-No.4-080429.doc) <https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-4-word> (external link, opens in a new window) must be returned by 1 September in the following financial year, or by a date to be agreed between the organisation and the department's assigned Local Engagement Officer in the Agency Connections Team of the Division. This date will take into account any relevant upgrading works that are scheduled.

#### Funded organisation (owned / leased) premises fire safety standard (Standard No. 5)

**Application**

Type of service:

Bed based with rostered/live-in staff support/supervision for statutory clients. May include disability (including respite), placement and support, mental health, drug and alcohol and residential services

Premises\*:

Owned, operated or leased by the organisation, but not a private home (subject to conditions refer Standard 1 and 2 above).

**Accompanying document**

[Capital Development Guidelines, Series 7, Fire Risk Management, August 2013](https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7) <https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7> (external link, opens in a new window) are the relevant guidelines applicable for specific occupancy types for which the organisation has responsibility.

Specifications

The organisation is required to make certain that the persons in its care are appropriately protected from risk from fire. This protection includes:

* **Premises** - The premises must meet the requirements of the relevant [Capital Development Guidelines, Series 7, Fire Risk Management, August 2013](https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7) <https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7> (external link, opens in a new window) as amended from time to time) applicable to those premises\*. The department will discuss the process of fire safety assessment and upgrade works and availability of funds (where this has not already been done) to meet these requirements.

\* in each case a reference to premises refers to those premises from which the service (which is subject to this Service agreement) is provided.

* **Operational readiness** - The organisation must ensure that appropriate operational readiness measures are developed, implemented and reviewed as a minimum in accordance with Australian Standards: AS 4083-2010, Planning for emergencies-Health care facilities as appropriate. This includes (but is not limited to) development of fire emergency management and evacuation procedures, training of staff to implement the procedures developed, and conducting regular drills.
* For organisations providing disability and/or placement and support residential services, operational readiness measures shall be in accordance with the department's fire and emergency response procedures and training framework (as amended from time to time). The framework can be accessed on the department's website (Publications section under the heading of Fire Risk Management, 'Fire and Emergency Response Procedures and Training Framework').
* **Maintenance of essential services** - The organisation shall ensure that all Essential Safety Measures (including all fire safety equipment/systems) are adequately maintained in accordance with the Building Regulations.
* Completion of the [Weekly checklist](https://providers.dhhs.vic.gov.au/fire-safety-equipment-weekly-checklist-community-service-organisations-word) <https://providers.dhhs.vic.gov.au/fire-safety-equipment-weekly-checklist-community-service-organisations-word> (external link, opens in a new window)will assist in providing documentation to support completion of the annual Essential Safety Measures Report.
* **Client placement** - The organisation must determine whether the premises are suitable for the clients to be evacuated safely, taking into account any fire safety systems installed, and the evacuation capacities of the client. Where any relevant change may affect a client's ongoing ability to evacuate safely, the suitability of the placement must be reassessed immediately and appropriate action taken as soon as possible.
* Where the organisation does not select the clients, the organisation must still monitor any relevant changes that may affect the client's ongoing ability to evacuate safely, assess the suitability of the placement, and take appropriate action as soon as possible.
* **Fire Safety Certification** [Fire Safety Compliance - Certificate No. 5](https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-5-word) <https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-5-word> (external link, opens in a new window) must be returned by 1 September in the following financial year or by a date to be agreed between the agency and the department's assigned Local Engagement Officer (LEO) in the Agency Connections Team of the Division. This date will take into account any relevant upgrading works that are scheduled.

#### Hospital premises fire safety standard (Standard No. 6)

**Application**

Type of service:

A building, or part thereof, used on a 24-hour basis for medical, obstetrical or surgical care of four or more inpatients, including acute hospitals. May include disability (including respite), placement and support, mental health, drug and alcohol and residential services within a hospital.

**Premises\*:**

Owned operated or funded by the department or an agency subject to a Service agreement with the department.

**Accompanying document**

[Capital Development Guidelines, Series 7, Fire Risk Management, August 2013](https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7" \t "_blank) <https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7> (external link, opens in a new window) are the relevant guidelines applicable for specific occupancy types for which the organisation has responsibility.

**Specifications**

* The organisation is required to make certain that the persons in its care are appropriately protected from risk from fire. This protection includes:
* **Premises** - The premises must meet the requirements of the relevant [Capital Development Guidelines, Series 7, Fire Risk Management, August 2013](https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7) <https://providers.dhhs.vic.gov.au/capital-development-guidelines-series-7> (external link, opens in a new window) (as amended from time to time) applicable to those premises\*. The department will discuss the process of fire safety assessment and upgrade works and availability of funds (where this has not already been done) to meet these requirements.

\* In each case a reference to premises refers to those premises from which the service (which is subject to this Service agreement) is provided.

* **Operational readiness**,The organisation must ensure that appropriate operational readiness measures are developed, implemented and reviewed as a minimum in accordance with Australian Standards: AS 4083-2010, Planning for emergencies - Health care facilities and AS 3745-2010, Emergency Control Organisation and Procedures for Buildings as appropriate. This includes (but is not limited to) development of fire emergency management and evacuation procedures, training of staff to implement the procedures developed, and conducting regular drills.
* **Maintenance of Essential Safety Measures** - The organisation shall ensure that all Essential Safety Measures (including all fire safety equipment/systems) are adequately maintained in accordance with the Building Act, Building Regulations.
* **Fire Safety Certification** - [Fire Safety Compliance - Certificate No. 6](https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-6-health-service-pdf) <https://providers.dhhs.vic.gov.au/fire-safety-compliance-certificate-no-6-health-service-pdf> (external link, opens in a new window) must be returned by 1 September in the following financial year or by a date to be agreed between the agency and the department. This date will take into account any relevant upgrading works that are scheduled.

**For further information**

James McNally, Manager, Fire Services Team   
Telephone: (03) 9096 60649  
Email: [fireriskmanagementunit@dhhs.vic.gov.au](mailto:fireriskmanagementunit@dhhs.vic.gov.au)

## 4.2 Asbestos risk management guidelines

#### Who does this policy apply to?

This policy applies to organisations funded by the DHHS.

#### Policy purpose

To ensure organisations funded by the department comply with Occupational Health and Safety Requirements.

#### Legislation and /or regulation

* [Occupational Health and Safety Act 2004](http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/ohasa2004273/) <http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/ohasa2004273/> (external link, opens in a new window)
* [Occupational Health and Safety Regulations 2017](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/b05145073fa2a882ca256da4001bc4e7/05C39981B52D9E0FCA25810E0021D052/$FILE/17-022sra%20authorised.pdf) <http://www.legislation.vic.gov.au/Domino/Web\_Notes/LDMS/PubStatbook.nsf/b05145073fa2a882ca256da4001bc4e7/05C39981B52D9E0FCA25810E0021D052/$FILE/17-022sra%20authorised.pdf> (external link, opens in a new window)

#### Organisation requirements

Current Asbestos Register

#### Further information

[Asbestos in Victoria](http://www.asbestos.vic.gov.au/) <http://www.asbestos.vic.gov.au/> (external link, opens in a new window)

[Managing Asbestos in Workplaces Compliance Code](http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/managing-asbestos-in-workplaces-compliance-code) <http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/managing-asbestos-in-workplaces-compliance-code> (external link, opens in a new window) provides information on how you can safely manage asbestos in your workplace

[Removing Asbestos in Workplaces Compliance Code](http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/removing-asbestos-in-workplaces-compliance-code) <http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/removing-asbestos-in-workplaces-compliance-code> (external link, opens in a new window) provides information on how you can arrange for the safe removal of asbestos from your workplace.

Liz Stackhouse, Assistant Director, Asset Strategy, Infrastructure Planning and Delivery  
Tel: (03) 9096 1312  
Email: [liz.stackhouse@dhhs.vic.gov.au](mailto:liz.stackhouse@dhhs.vic.gov.au)

## 4.3 Incident reporting

#### Who does this policy apply to?

The *Client incident management guide* and *Client incident management guide – out-of-home care addendum* apply to services directly delivered or funded by the Department of Health and Human Services including children, youth and family services, disability services, aged care and carer’s support services, alcohol and drug treatment services, community palliative care services, home and community care services, mental health community support services, sexual health prevention services, housing and community building services, youth services.

All integrated and most registered community health services use the Victorian Health Incident Management System to manage and report incidents. Community health services’ use of the Client Incident Management system is deferred from January 2018 to January 2019. This applies to the whole of the organisation, and is not specific to particular funded programs. During this deferment period, community health services are to continue to use the former Health and Human Services client incident report forms to submit Category One and Two incidents to the department as per existing processes.

For further information regarding incident reporting arrangements for community health services, contact [partnerships.primary@dhhs.vic.gov.au](mailto:partnerships.primary@dhhs.vic.gov.au).

#### Policy purpose

The instruction outlines the response, management and reporting requirements for incidents or alleged incidents that involve or impact upon clients during service delivery.

#### Legislation and /or regulation

Nil

#### Organisation requirements

Reporting and management of client incidents as defined in the instructions is compulsory.

For client incident reporting and management applicable to department funded organisations, see incident management and reporting guidance on the providers’ website [Incident reporting](http://providers.dhhs.vic.gov.au/reporting-incidents) <http://providers.dhhs.vic.gov.au/reporting-incidents> (external link, opens in a new window) web page.

**Offence for failure to disclose child sexual abuse**

The offence for failure to disclose child sexual abuse to the police came into effect on 27 October 2014.

Further information about the offence and how to report is available on the human services [New criminal offences to improve responses to child sexual abuse](https://providers.dhhs.vic.gov.au/criminal-offences-improve-responses-child-sex-abuse) <https://providers.dhhs.vic.gov.au/criminal-offences-improve-responses-child-sex-abuse> (external link, opens in a new window) web page.

**New offence for failure to protect children from the risk of sexual abuse**

The new offence for 'failure to protect' a child from a risk of sexual abuse commenced on 1 July 2015.

A fact sheet about the offence is available to download from the human services [New criminal offences to improve responses to child sexual abuse](https://providers.dhhs.vic.gov.au/criminal-offences-improve-responses-child-sex-abuse) <https://providers.dhhs.vic.gov.au/criminal-offences-improve-responses-child-sex-abuse> (external link, opens in a new window) web page. Alternatively, you can email [childsafestandards@dhhs.vic.gov.au](mailto:childsafestandards@dhhs.vic.gov.au)

#### For further information

Kerry Sayburn, Acting Manager, Quality and Oversight, Operational Performance and Quality Branch, Children, Families, Disability and Operations Division  
Telephone: (03) 9096 2162  
Email: [kerry.sayburn@dhhs.vic.gov.au](mailto:kerry.sayburn@dhhs.vic.gov.au)

**Community Health Services only**

Abbey Howe, Manager, Community Health, Community Based Health Policy and Programs, Health and Wellbeing Division  
Telephone: (03) 9096 0543  
Email: [partnerships.primary@dhhs.vic.gov.au](mailto:partnerships.primary@dhhs.vic.gov.au)

**4.14.1 Reporting breaches of privacy**

Prior to 15 January 2018, funded organisations reported privacy breaches as category one critical incidents. This incident reporting approach changed with the introduction of the client incident management system (CIMS).

A new web-based privacy incident report form is now available in the Feedback Management System (FMS) to enable funded organisations to continue notifying the department about privacy incidents. Details can be found [department’s providers website](https://providers.dhhs.vic.gov.au/reporting-incidents) <https://providers.dhhs.vic.gov.au/reporting-incidents> (external link, opens in a new window).

#### For further information

#### Telephone: (03) 9096 0888 Email: [privacy@dhhs.vic.gov.au](mailto:privacy@dhhs.vic.gov.au)

## 4.4 Compliment and complaint management

The department is committed to listening to and responding to compliments and complaints. This important feedback informs the development and delivery of policies, programs and services that support and enhance the well-being of all Victorians.

The department aims to ensure services provided and funded, are effective and responsive to the people accessing them and therefore encourages transparent feedback processes.

#### Who does this policy apply to?

The policy is specifically designed for use by organisations funded by the Department of Health and Human Services.

#### Policy purpose

The purpose of the policy is to assist organisations in establishing or reviewing their existing practical frameworks relating to complaints and other forms of feedback. Organisations can adapt the sample compliment and complaint management policy document to meet their specific needs.

#### Legislation and/or regulation

Some organisations funded by the department are subject to specific legislative requirements and policy frameworks governing their approach to complaints management, for example the *Disability Act 2006*, *Mental Health Act 2014*, National Health Safety and Quality Standards. Organisations should ensure that they are fully informed of these requirements and they comply with them.

#### Client Services and Complaints Charter

The department has additional information, including a brochure, on the [department's Client Services Charter](https://dhhs.vic.gov.au/publications/client-services-charter) <https://dhhs.vic.gov.au/publications/client-services-charter> (external link, opens in a new window) web page.

#### Organisation requirements

It is important that all compliments and complaints are managed in line with the department’s guiding principles of visibility and accessibility, responsiveness, assessment and investigation, feedback, improvement focussed and service excellence.

Compliments and complaints related to funded organisation services should be handled by the funded organisation in the first instance. Funded organisations must have an accessible, responsive and transparent compliments, complaints and feedback framework to ensure continuous improvement.

Each funded organisation needs to decide how their compliments, complaints and feedback framework will work most effectively in the context of their service delivery while adhering to the department’s principles.

#### What is a complaint?

The department’s definition of a complaint is taken from the Australian Standard AS ISO 10002-2014 Customer Satisfaction – Guidelines for Complaints Handling in Organisations. A complaint is defined as ‘an expression of dissatisfaction made to or about an organisation, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected’.

#### What is a compliment?

A compliment is an expression of praise, encouragement or gratitude about a service that is funded, regulated or provided. It may be about an individual staff member, a team or a service.

#### Sample compliment and complaint management policy

A generic sample compliment and complaint management policy document is specifically designed for use by funded organisations. This is provided to assist organisations in establishing or reviewing their existing practical frameworks relating to compliments, complaints and other forms of feedback. Organisations can adapt the sample compliment and complaint management policy document to meet their specific needs. The sample and template documents are available from https://providers.dhhs.vic.gov.au/complaints.

#### Other Contacts

#### Complainants should always be advised of their option to take their complaint to an external oversight body at any stage of the complaints process. Complainants may also wish to contact:

#### Disability Services Commissioner

The Disability Services Commissioner works with people with a disability, and disability services to resolve complaints.

Telephone: 1800 677 342 (free call)

TTY service for people with hearing or speech difficulties: 1300 726 563

[Disability Services Commissioner website](http://www.odsc.vic.gov.au/) <http://www.odsc.vic.gov.au/> (external link, opens in a new window)

#### Health Complaints Commissioner

The Health Complaints Commissioner receives and resolves complaints about healthcare and the handling of health information in Victoria.

Telephone: 1300 582 113

[Health Complaints Commissioner website](https://hcc.vic.gov.au/) <https://www.hcc.vic.gov.au/> (external link, opens in a new window)

#### Mental Health Complaints Commissioner

The Mental Health Complaints Commissioner can assist you if your complaint is about a public mental health service in Victoria.

Telephone: 1800 246 054

[Mental Health Complaints Commissioner website](http://www.mhcc.vic.gov.au/) <http://www.mhcc.vic.gov.au/> (external link, opens in a new window)

#### Victorian Ombudsman

The Ombudsman has the power to investigate complaints about State and local government authorities. The Ombudsman investigates complaints made about decisions, actions or inaction by these bodies.

Telephone: 9613 6222 Regional: 1800 806 314

[Ombusdman Victoria website](https://www.ombudsman.vic.gov.au/) <https://www.ombudsman.vic.gov.au/> (external link, opens in a new window)

#### Office of the Commissioner for Privacy and Data Protection

The Privacy and Data Protection Commissioner will investigate complaints about a Victorian Government agency or local council’s failure to comply with one or more of the Information Privacy Principles.

Telephone: 1300 666 444

[Office](https://www.ombudsman.vic.gov.au/) of the Commissioner for Privacy and Data Protection <https://www.cpdp.vic.gov.au/> (external link, opens in a new window)

#### For further information

The Department of Health and Human Services, Complaints Unit provides support and assistance in the management and development of complaints policies, guidelines and processes.

The Complaints Unit provides a complaints line for departmental staff, clients and members of the public to register their feedback and complaints.

Complaints line: 1300 884 706  
Email: [complaints.reception@dhhs.vic.gov.au](mailto:complaints.reception@dhhs.vic.gov.au)  
Complaints Unit  
GPO Box 4057  
Melbourne VIC 3001

The department's website includes a guide to [Making a complaint to the Department of Health and Human Services](https://dhhs.vic.gov.au/making-complaint) <https://dhhs.vic.gov.au/making-complaint> (external link, opens in a new window)

## 4.5 Safety screening for funded organisations

#### Who does this policy apply to?

The sections immediately below (unless stated otherwise) are for organisations which receive funding from the former Department of Human Services and/or the former Department of Health which have now merged into the Department of Health and Human Services.

Note: Further updates may be required for this document. Always refer to this document online to ensure you have the most current version.

#### Policy purpose

Safety screening incorporates referee checks and the police record check. It may also include a Working with Children Check (if relevant to the role), a check against the Disability Worker Exclusion List (DWEL), a Disqualified Carer Check, Employment History Check (including disciplinary action disclosure and checks of qualification and training).

Safety screening plays an important role in providing a safer service delivery for people who receive support from community services organisations funded or registered by various departments within Victoria. The overarching imperative of the policy is to strengthen the protections and safeguards for people through a rigorous approach to managing employment safety screening.

#### Legislation and /or regulation

Relevant legislation is flagged in the pertinent sections of the policy.

#### Overview of safety screening

Safety screening is not a means of precluding people with an adverse history from employment within funded or registered organisations. The relevance of any adverse history is assessed strictly in relation to the work environment and job role. All of these checks are undertaken in strict compliance with the privacy and confidentiality principles as required by relevant legislation.

Safety screening does not completely eliminate the risk of employing unsuitable staff, however, it is designed to minimise that risk on the basis of available, relevant information. Employment safety screening will not detect ‘unsuitable’ employees unless the employee has a police record or if referees know of their background.

**Note**: Future risks are not mitigated by one-off safety screening at recruitment and it is prudent for funded or registered organisations and authorised agencies\* should incorporate a statement in their employment agreements confirming that all staff are obligated to:

* + advise their manager if they are charged with a criminal offence which is punishable by imprisonment or, if found guilty, could reasonably affect their ability to meet the inherent requirements of their job
  + disclose any formal disciplinary action taken against them by any current or former employer (many staff have multiple employers). This includes any finding of improper or unprofessional conduct by any Court or Tribunal of any kind and any investigations that the staff member has been subject of by an employer, law enforcement agency or any integrity body or similar in Australia or in another country
  + report any new criminal charges and/or disciplinary actions during their employment/engagement.

\*For an explanation of authorised agencies, refer to [Disability Worker Exclusion Scheme](https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme) <https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme> (external link, opens in a new window)

It is also prudent for funded or registered organisations and authorised agencies to ask prospective workers to sign a statutory declaration with the content below stating that they have fully disclosed to their prospective employer, all relevant information regarding their criminal record and employment history. See the [statutory declaration](https://fac.dhhs.vic.gov.au/safety-screening-statutory-declaration) <<https://fac.dhhs.vic.gov.au/safety-screening-statutory-declaration>> (external link, opens in a new window).

By way of this statutory declaration, they are declaring that they have fully disclosed in writing to the organisation, all details of:

* + any charges laid against them by police concerning any offence committed in Australia or in another country in the past
  + any offence of which they have been found guilty, committed in Australia or in another country in the past
  + any formal disciplinary action taken against them by any current or former employer
  + any finding of improper or unprofessional conduct by them by any Court or Tribunal of any kind
  + any investigations they have been the subject of by an employer, law enforcement agency or any integrity body or similar in Australia or in another country.

They should also ensure that a copy of their responses to the above issues (which they provided to the organisation as part of the recruitment process to a position within the organisation) is attached.

A statement to this effect should be included in the contract of employment paperwork.

#### When to apply this policy

As employer, regulator and funder, the department is committed to providing quality services to vulnerable clients in a safe environment. The department requires that funded organisations include safety screening pre-employment/pre-placement police record checks in their recruitment processes to minimise the risk of employing or engaging unsuitable people. Safety screening may also include conducting checks against the DWEL or a Working with Children Check, where relevant, please refer to the relevant section within this policy.

**Note**: An offer of employment or placement cannot occur until the safety screening processes have been completed including the police record check and any issues have been assessed by the funded organisation.

All funded organisations and all authorised agencies that provide services to clients and/or patients categories for the department are required to comply with this policy (see Use of Labour Hire Staff for additional related information):

#### Pre-employment safety screening checks

Pre-employment safety screening checks involves the following tasks:

* Disability Worker Exclusion List check (applicable to all disability services) (if required)
* Disqualified Carer check (also known as Carers’ Register – applicable to out-of-home-care of children) (if required)
* Employment history including disciplinary action disclosure
* Police record check (including Proof of identity check)
* Qualification check (if relevant)
* Confirmation of a Working With Children Check (WWCC) receipt followed by sighting the WWCC card Referee Checks.

See below for specific information relating to the above tasks. The information required for pre-employment safety screening is collected with an applicant’s informed consent.

A pre-employment [safety screening statutory declaration](https://fac.dhhs.vic.gov.au/safety-screening-statutory-declaration) <<https://fac.dhhs.vic.gov.au/safety-screening-statutory-declaration>> (external link, opens in a new window) is available.

#### Disability Worker Exclusion List check

The [Disability Worker Exclusion Scheme (DWES)](https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme) <https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme> (external link, opens in a new window) is a Victorian Government initiative designed to further protect the safety and wellbeing of Victorians with a disability accessing disability services.

Disability service providers providing disability services within the meaning of the Disability Act 2006 and authorised agencies are required to comply with the DWES.

The DWES provides a mechanism to collect, store and use information about people who are unsuitable to work with clients in disability services. People who are found to be unsuitable are placed on the Disability Worker Exclusion List (DWEL) and prevented from engaging with a disability service provider as a disability worker or being involved with work with regular direct contact with access to a person with a disability.

Refer to the [Disability Worker Exclusion Scheme Instruction (October 2017)](https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme) <https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme> (external link, opens in a new window) for further information about the operation of the scheme. [The pre-employment statutory declaration form](http://providers.dhhs.vic.gov.au/statutory-declaration-pre-employment-screening-disability-workers-dwes-word) <http://providers.dhhs.vic.gov.au/statutory-declaration-pre-employment-screening-disability-workers-dwes-word> and standard letters can be also found on the site.

**Note**: Funded or registered organisations are required to provide the department with notifications in respect of staff provided by labour hire agencies if they become aware that a worker may satisfy the criteria for placement on the DWEL. In addition, when giving notice to the DWES unit, the funded or registered organisation should also give notice of the notification to the employing labour hire agency.

Also, note that ‘authorised’ labour hire agencies are those agencies that have been authorised to conduct checks against the Disability Worker Exclusion List and are not preferred providers of the department. The department does not endorse the use of ‘authorised’ agencies over other labour hire agencies.

Authorised agencies are required to comply with the requirements of the DWES including, but not limited to, the [Disability Worker Exclusion Scheme Instruction (October 2017)](https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme) <https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme> (external link, opens in a new window). This includes conducting annual checks of labour hire agency staff against the Disability Worker Exclusion List (see Use of Labour Hire Staff).

#### Use of Labour Hire Staff

**Specific to Department of Health and Human Services**

All organisations that are funded or registered by the department must ensure that any labour hire agency staff (labour hire) engaged to work in their organisation have undergone the necessary safety screening checks outlined in this policy prior to the commencement of work regardless of their employment status.

The department recognises that labour hire agency staff are often employed in circumstances where conducting all of the necessary safety screening requirements may be difficult or impractical, for example, when there are last minute staff shortages. In order to meet the obligations under this policy funded or registered organisations can apply one of the following options when engaging labour hires.

**Option 1:** Undertake their own checks in respect of labour hires. Checks of labour hires against the Disability Worker Exclusion List (if required) must be conducted once every 12 months.

**Option 2:** Use an authorised labour hire agency that complies with the safety screening requirements outlined in this policy and undertakes all of the relevant safety screening checks of workers as outlined in this policy.

**Use of Labour hire staff for Disability Services**

Labour hire agencies that are used by a disability service provider may apply to become authorised labour hire agencies. Generally, this will involve the agency satisfying the department that they are aware of and understand the requirements of the Scheme; and will implement the requirements of the Scheme.

If the department is satisfied that an agency is able to meet these requirements; the agency will be asked to enter into an agreement with the department.

There are a number of labour hire agencies that have agreed to comply with the requirements of the Scheme. A disability service provider may engage a disability worker from such an agency in a disability service, and rely upon checks undertaken by these agencies in respect of that prospective disability worker, provided that the following applies:

* The labour hire agency must be named as being an authorised labour hire agency see [Disability Workers Exclusion Scheme](https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme) <https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme> (external link, opens in a new window) at the time of placement.
* The disability service provider must receive written confirmation from the authorised labour hire agency prior to the first occasion that the disability worker is placed with the disability service provider specifying:
  + - that the disability worker is aware of and agrees to be bound by the operation of the Scheme
    - the date when the name of the disability worker was checked against the List and confirmation was received from the DWES Unit that the name of disability worker was not on the List (if applicable)
    - that the requirements of the department’s screening policies have been met and the date when screening took place, including when the results of a police record check were received, and the outcome of that check for the disability worker
      * that the authorised labour hire agency is not aware of any notifications in respect of the disability worker and that the authorised labour hire agency consents, and the disability worker has given their consent to the disability service provider notifying the DWES Unit in respect of the disability worker if they become aware of circumstances requiring Notification under the Scheme.

For a copy of the suggested proforma confirmation that a disability service provider should receive from an authorised labour hire agency, refer to [Disability Workers Exclusion Scheme](https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme) <https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme> (external link, opens in a new window). A copy of the confirmation received should be retained by a disability service provider for a minimum period of seven years.

A disability service provider who engages a disability worker through an authorised labour hire agency is encouraged to ensure that they have agreements in place with that authorised labour hire agency requiring the authorised labour hire agency to fully cooperate with any investigation undertaken for the purpose of compliance with the Scheme. This includes any investigation for the purpose of determining whether or not a person should be placed on the List.

A disability service provider must therefore check to ensure that an authorised labour hire agency’s authorisation remains current at the time of placement. As set out above, authorised labour hire agencies are listed on the [Disability Workers Exclusion Scheme page on the Providers website](https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme) <https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme> (external link, opens in a new window).

**Use of Labour Hire Staff for Residential Care Services for children and young people**

Funded organisations engaging labour hires for residential care services for children and young people must ensure that the interview panel chairperson conducts referee checks on competitive labour hire applicants after interviews have been conducted. The funded organisation must ask all referees to provide comments on the suitability of the applicant to work directly with children, including the possibility of the applicant working alone with one or more children.

The funded organisation must complete the following pre-employment check process before the labour hire commences providing residential care services for them:

1. obtain and make copies of the following documents relating to the labour hire:
   * + current Australian Drivers Licence (cite licence number and expiry date)
     + a current Working with Children Check (cite number and expiry date)
     + a national Police Check (current within the past 12 months) compliant with the requirements of this policy including evidence that a conversation has taken place with the relevant departmental Area Director regarding the employment or engagement of the labour hire where the Police Check reveals a disclosable record
     + a current International Police Check where required.
2. obtain from the labour hire a current signed original pre-existing injury or disease declaration in accordance with section 82(7) of the *Accident Compensation Act 1985 (Vic),* to be held on file by the funded organisation
3. having obtained from the labour hire a fully informed signed written declaration granting permission for such disclosure, provide to the Program Manager of the funded organisation:
   * + - * details of any quality of care concerns known to the funded organisation regarding the conduct of the labour hire; and
         * the following details of the labour hire as required to complete an out-of-home-care Disqualified Carer Check and update the department’s register of out-of-home carers:
       - name (including maiden names, aliases and any other names the labour hire has been known by)
       - date of birth
       - current address
       - whether the labour hire is of Aboriginal or Torres Strait Islander descent
       - gender.

The funded organisation will maintain securely stored records on these matters for each Labour Hire Contract Worker to be engaged to provide residential care services for their organisation (see Appendix 6 Record storage and destruction)

#### Out-of-Home Care Disqualified Carer Check and Carer Registration

The *Children, Youth and Families Act 2005* (the Act) aims to increase protection for children in out-of-home care. The Act also requires the department to keep a register (the Carer Register) of all foster carers, residential carers (including permanent, part-time, casual and temporary agency staff) and providers of services to children at an out-of-home residence. Registered out-of-home care services have authorised access to the Carer Register.

The Act requires that a Disqualified Carer Check **must** be conducted and cleared **prior** to an out-of-home carer being approved, employed or engaged by an out-of-home care service. The service **must** then register the out-of-home carer on the Carer Register within 14 days. The Act allows for penalties to be applied if the Disqualified Carer Check process is not followed.

Funded or registered organisations must comply with the departmental policy [Engaging labour hire residential care staff in out-of-home care services](https://dhhs.vic.gov.au/labour-hire-procedures-residential-services-victoria)'.<https://dhhs.vic.gov.au/labour-hire-procedures-residential-services-victoria> (external link, opens in a new window).

These procedures specify roles and responsibilities to be adopted by funded or registered organisations and the labour hire agencies they engage in order to implement relevant legislation, regulations, policies and practices in Victoria for recruiting and selecting contract workers, their registration as carers, and their engagement in out-of-home residential care services for children and young people.

**For further information**

For further information about the Disqualified Carer Check process or the Carer Register, email the Department of Health and Human Services' Service Outcomes Unit [Carer.Register@dhhs.vic.gov.au](mailto:Carer.Register@dhhs.vic.gov.au)

#### Employment History (including disciplinary action disclosure)

It is prudent to require prospective employees to disclose any formal disciplinary action taken against them by any current or former employer (many workers have multiple employers). This includes any finding of improper or unprofessional conduct by any Court or Tribunal of any kind and any investigations that the prospective employee has been subject of by an employer, law enforcement agency or any integrity body or similar in Australia or in another country.

#### Police record check (including Proof of Identity)

Police record checks (sometimes referred to as criminal record checks), identify and release relevant criminal history information, at a point in time, using information held by police in Victoria and other states and territories relating to convictions, findings of guilt or pending court proceedings.

Establishing the identity of an applicant is critical to ensuring any police history information identified through a police record check belongs to the correct person. Therefore, the applicant must complete a police check form giving their consent to have their police history checked. This form also contains the proof of identity check.

It is prudent to establish proof of identity when the applicant presents for interview to streamline and expedite the process. Applicants should be advised that their documentation will be processed where they are deemed competitive but will be otherwise destroyed.

Police record checks are not required for persons aged sixteen years or younger; however referee checks should be conducted. Teachers, parents and others who personally know the individual should act as referees and the credentials of any referees should be verified.

#### Recurrent national police checks – residential care for child protection clients

An individual providing residential care for child protection clients must undergo a national police check prior to any offer of engagement or employment being made and a new national police check must be undertaken not less than once during each period of three years.

**Recurrent national police checks – foster care and lead tenants**

A foster carer or lead tenant must undergo a national police check prior to being approved to care and new national police check must be undertaken not less than once during each period of three years

Usual members of the household in home-based settings (including spouses/partners, children aged 18 and older and persons who regularly stay overnight) must undergo a national police check prior to any child being placed and a new national police check must be undertaken not less than once during each period of three years

A foster carer or lead tenant applying for accreditation with another organisation requires a new national police check. This requirement also applies to the usual members of the household in home-based settings.

Where a person refuses consent to a national police check, they cannot be approved to remain in the home and the matter must be referred to the CSO senior program manager and immediately brought to the attention of the department’s divisional Deputy Secretary and divisional Director, Client Outcomes and Service Improvement (COSI).

In the event of a disclosable court outcome, refer to the section ‘Results of the police check – disclosable court outcome’ below.

#### Student placements

For students aged 17 years or younger, police checks are not required, however referee checks with teachers, parents or other adults who personally know the students must be undertaken. A referee’s credentials can be verified by sighting official letterhead stationery or an email containing an official signature block or sent from an organisation’s server.

A police check is required for students aged 18 years and older. These checks are administered by the relevant course coordinator in the educational institute or the student can obtain a police check through [Victoria Police](http://www.police.vic.gov.au/content.asp?Document_ID=274) <http://www.police.vic.gov.au/content.asp?Document\_ID=274> (external link, opens in a new window). Police record checks should be undertaken prior to the confirmation of the first placement and in each subsequent year of study. The student has the responsibility to notify the educational institution and the organisation of any change to the student's police record check status during the course year.

The educational institution's course coordinator must ensure that students are notified of the department’s information collection requirements. The course coordinator must also explain the implications of consenting to a police record check and that refusal to undergo a police record check will mean that a placement cannot proceed.

For international students or students who have resided in an overseas country for 12 months or more in the last ten years, as they are only here for a short period, the usual requirement for obtaining an international police check is waived. However, they must complete a Statutory Declaration. By way of this [statutory declaration](https://fac.dhhs.vic.gov.au/student-placement-safety-screening-statutory-declaration) <https://fac.dhhs.vic.gov.au/student-placement-safety-screening-statutory-declaration>.

By way of this statutory declaration, they are declaring that they do not have:

* any charges laid against them by police concerning any offence committed in Australia or in another country in the past
* any offence of which they have been found guilty, committed in Australia or in another country in the past.

International police checks

Applicants must be informed at the beginning of the recruitment processes that if they have resided continuously in an overseas country for 12 months or more in the last ten years, they should contact the relevant overseas police force to obtain a criminal or police record check. This is not applicable if they were travelling through, for example, backpacking and only staying in some countries for very short periods. Victoria Police and ACIC do not conduct international police checks, although some ACIC accredited broker agencies may do so. If they were a minor when they were overseas, they do not require an international police check.

Some countries will not release information regarding an individual for personal or third party purposes. In these extenuating cases, where an international police records check cannot be obtained, a statutory declaration and character reference checks must be conducted with at least two individuals who personally knew the individual while they were residing in the other country. This should be undertaken as a very last resort if the international police check is actually unavailable and cannot be obtained.

The applicant must be informed that referees will be asked whether they have knowledge or information concerning the applicant, which would adversely affect the applicant from performing the job, including any relevant criminal offences. The credentials of persons acting as referees must be verified and can include previous employers, government officials and family members.

Overseas applicants should not commence employment until this process is satisfactorily completed and this decision should be signed off by the relevant funded organisation manager.

In the case of asylum seekers and refugees who may be unable to provide character references to accompany a statutory declaration, the statutory declaration will suffice with proof of status. However, eligibility to work should be confirmed as part of the recruitment process by the funded organisation using the Department of Immigration and Border Protection’s Visa Entitlement Verification Online (VEVO) checking system at [Department of Immigration and Border Protection’s Visa Entitlement Verification Online (VEVO) checking system](http://www.border.gov.au/Busi/Visa) <http://www.border.gov.au/Busi/Visa> (external link, opens in a new window) or their faxback service.

**Obtaining a police check**

The department does not organise police record checks for funded/registered organisations (except in emergency situations).

Police record checks can be obtained directly from [Victoria Police](http://www.police.vic.gov.au/content.asp?Document_ID=274) <http://www.police.vic.gov.au/content.asp?Document\_ID=274> (external link, opens in a new window) or through an authorised service or agency accredited by the Australian Criminal Intelligence Commission (ACIC, formerly known as CrimTrac). ACIC is the national information sharing service for Australia's police, law enforcement and national security agencies. ACIC provides a list of [accredited agencies](https://www.acic.gov.au/our-services/national-police-checking-service/find-out-more-information/accredited-bodies#accordion-1) <https://www.acic.gov.au/our-services/national-police-checking-service/find-out-more-information/accredited-bodies#accordion-1> (external link, opens in a new window).

**Cost of police record checks**

Current information on the cost of obtaining a police record check [Victoria Police](http://www.police.vic.gov.au/content.asp?Document_ID=274) <http://www.police.vic.gov.au/content.asp?Document\_ID=274> (external link, opens in a new window). Applicants and organisations conducting police record checks may be able to access reduced fees for checks on volunteers and students on placement.

Some authorised service providers, may also offer reduced fees for volunteers. For more information refer to [ACIC](https://www.acic.gov.au/our-services/national-police-checks) <https://www.acic.gov.au/our-services/national-police-checks> (external link, opens in a new window).

**Prior to lodging a police record check**

Funded or registered organisations and authorised agencies must inform applicants that a police record check will be conducted if the applicant is competitive.

Requests for police record checks can only be submitted if the individual's written consent has been obtained. Written consent is obtained when the individual completes the relevant consent form provided by Victoria Police or the CrimTrac accredited agency.

If the organisation is conducting police record checks through an ACIC accredited agency, the funded/registered organisation should ensure that they provide applicants with relevant information as outlined by the accredited agency.

**Lodging a police check**

Procedures for lodging a police record check can be obtained from [Victoria Police](http://www.police.vic.gov.au/content.asp?Document_ID=274) <http://www.police.vic.gov.au/content.asp?Document\_ID=274> (external link, opens in a new window) or the ACIC accredited agency providing the police record check service.

**Emergency police record checks**

The department will conduct police record checks for funded/registered organisations only in emergency situations.

Emergency situations include those where client or patient contact is an immediate urgent issue (such as short term, emergency placement of children with extended family members or friends or for assessing volunteers being used in strike situations). The emergency check process should only be used in genuine emergencies and not as a solution to the late submission of police record check requests as there are limits on the number of emergency checks that can be conducted.

The emergency checks are to be arranged through the relevant Department of Health and Human Services' Regional Employment Police Record Checks Coordinator. The department will invoice organisations for any emergency checks conducted on their behalf, except where the department would normally reimburse these costs.

**Results of the police record check**

Information released as part of a police record check is restricted according to the relevant legislation or release policies operating in the specific police jurisdiction. Refer to the Victoria Police website for more information go to the [Victoria Police](http://www.police.vic.gov.au/) website <http://www.police.vic.gov.au> (external link, opens in a new window).

**Results of the police record check - no disclosable court outcome**

Where the police record check of the competitive applicant, volunteer or student reveals no disclosable court outcomes, outstanding charges or other matters the appointment may be confirmed (an offer of employment or placement can be made).

**Results of the police record check - disclosable court outcome**

An applicant should not automatically be precluded from a job or placement on the basis of having a police record.

However, in line with Victorian Department of Health and Human Services’ Child Protection Manual, for roles which will involve caring for child protection clients, if a person’s national police history includes a Category A offence, further steps need to be taken. The individual should not be engaged in any client contact role if their criminal history includes a Category A offence without the written approval of the Director of the Office of Professional Practice (located at the department’s head office, 50 Lonsdale Street, Melbourne) and the Divisional Deputy Secretary.

A person whose criminal history includes a Category A offence must not be permitted to enter or remain within the household while a child protection client is placed there unless written endorsement has been obtained from the Director of the Office of Professional Practice (located at the department’s head office, 50 Lonsdale Street, Melbourne).

In all other cases, for roles which do not involve caring for child protection clients, the relevant manager in the funded/registered organisation will manage the assessment process in order to determine the applicant's suitability for employment or placement (see [Safety screening assessment instructions and form](https://fac.dhhs.vic.gov.au/safety-screening-assessment-instructions-and-form)) <https://fac.dhhs.vic.gov.au/safety-screening-assessment-instructions-and-form> (external link, opens in a new window).

The funded/registered organisation manager will ensure that:

1. the applicant, student or volunteer confirms that the details of the disclosable record are correct (if there is a dispute, refer to the Victoria Police website and search for Criminal History Information Dispute process);
2. assessment of the disclosable record of the applicant, volunteer or student is made in accordance with the assessment criteria detailed below. N.B. there should be no mention of the actual offence in the assessment form;
3. before employment is formally offered, a discussion occurs with the relevant department Area Director/regional senior program manager about the intention to employ an individual with such a record. The departmental representative cannot direct or make the decision to employ, but should provide their opinion regarding any decision the organisation makes (in line with principles outlined). A list of relevant department Area Directors is available on the [Funded agency channel](https://fac.dhhs.vic.gov.au/useful-links) <https://fac.dhhs.vic.gov.au/useful-links> (external link, opens in a new window).
4. following the discussion, the department Area Director should send an email to the manager of the funded/registered organisation to confirm the outcome of the discussion, including the funded organisation manager's decision to either employ or not employ the individual (without reference to the details of the disclosable record); and
5. any decision made for or against a person is able to be justified and is fully documented.

The funded/registered organisation manager should give consideration to the following assessment criteria:

* + the relevance of the criminal offence, in relation to the job or placement
  + the nature of the offence and the relationship of the offence to the particular job or placement for which the applicant is being considered
  + the length of time since the offence took place
  + whether the person was convicted or found guilty and placed on a bond
  + whether there is evidence of an extended police record
  + the number of offences committed which may establish a pattern of behaviour which renders the applicant unsuitable
  + whether the offence was committed as an adult or a juvenile
  + the severity of punishment imposed
  + whether the offence is still a crime, that is, has the offence now been decriminalised
  + whether there are other factors that may be relevant for consideration, and
  + the person's general character since the offence was committed.

Where a funded/registered organisation's manager makes the decision not to take on an applicant, volunteer or student with a disclosable record, the funded/registered organisation manager must:

* inform the unsuccessful applicant of the decision and its rationale
* provide an opportunity for the unsuccessful applicant to discuss the results, and
* inform the unsuccessful applicant of the opportunity for the decision to be reviewed.

Where a check demonstrates that a person has a disclosable record, a funded/registered organisation may also have obligations to report that outcome to the Disability Worker Exclusion Scheme Unit. For further information about this process, refer to the *Disability Worker Exclusion Scheme Instruction (October 2017)*available on the [Disability Worker Exclusion Scheme web page](https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme) <https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme> (external link, opens in a new window).

#### Qualification check

If qualifications are a mandatory requirement of the role, original qualifications must be copied, certified as being a true copy of the original and dated by the relevant delegate then returned to the applicant.

If there are doubts about the qualification, the organisation or authorised agency should undertake an online check to verify that the qualification was awarded to the applicant. If an online check is not possible, the applicant should provide a letter from the registrar of the relevant institution confirming that the qualification was in fact awarded to the applicant. If there are any concerns about the authenticity of the qualification as presented, the issuing institution must be contacted directly to verify that the particular qualification was completed and issued to the relevant applicant on the date specified.

#### Working with Children Check

In 2006, the Victorian Government introduced a checking system which affects some people who work or volunteer with children. The Working with Children Check (WWCC) helps to protect children from sexual or physical harm by checking a person's criminal history for serious sexual, violence or drug offences and findings from professional disciplinary bodies. The introduction of the WWCC creates a mandatory minimum checking standard across Victoria. **Note**: Each state has their own process, they are not transferable interstate. In Victoria, a Victorian WWCC is required.

Employers, self-employed persons, employees and volunteers all have obligations and responsibilities under the *Working with Children Act 2005*. By fulfilling these obligations, Victoria's children will be made safer through the effective operation of the WWCC.  
Funded and registered organisations are responsible for ensuring that their organisations comply with this legislation and, in particular that:

* all employees, labour hires, volunteers or students 18 years or over who are required to obtain a WWCC, do so
* employees or volunteers issued with a Negative Notice do not undertake child-related work as defined by the *Working With Children Act 2005*
* periodically go to the Department of Justice WWC Check website and check the status of all employees and volunteers with WWC Check cards using Check Status function.

If the employees and volunteers of funded/registered organisations require a WWCC, they must:

* show their Application Receipt to their employer or volunteer organisation upon request as evidence that they have submitted an application
* present their WWCC card to their employer or volunteer organisation on request or when applying for child-related work
* inform their employer or volunteer organisation within seven days if they have been issued with an Interim Negative Notice or Negative Notice, or if they have a relevant change in circumstances
* not engage in child-related work if they have been issued with a Negative Notice
* ensure the accuracy of their personal details and employer or volunteer organisation information through the use of the online MyCheck/Change of Details function on the Department of Justice and Regulation WWCC website.

For a full and complete list of all obligations or for further information refer to the [Working with Children website](http://www.justice.vic.gov.au/workingwithchildren) <www.justice.vic.gov.au/workingwithchildren> (external link, opens in a new window).

From 1 July 2006, organisations receiving funding from the department are responsible for ensuring that employees or volunteers undergo a Working with Children Check if required. Section 9 of the Working with Children Act 2005 identifies which employees or volunteers require a WWCC. Employees and volunteers must ensure that the contact details for any funded/registered organisations for whom they work/volunteer should be in the employer section in the WWCC application form.

All organisations receiving funding from the department must visit the Working With Children website in order to understand their obligations in full, in particular the amendments to the *Working with Children Act 2005* (the Act) which came into effect on 1 August 2017.

The Royal Commission into Institutional Responses to Child Sexual Abuse made several recommendations aimed at strengthening the protection children receive through Working with Children Checks. The following amendments to the Act implement these recommendations:

1. Expanding the definition of ‘**direct contact**’ in the Act. The definition of direct contact now includes oral, written or electronic communication as well as face-to-face and physical contact.
2. Removing references to ‘**supervision**’ from the Act. This means that even if a person’s contact with children as part of their child-related work is supervised by another person, they will still need to apply for a WWCC.
3. Creating a new occupational category of ‘child-related work’, known as ‘kinship care’. Family members or other persons of significance caring for a child placed by Child Protection under the *Children, Youth and Families Act 2005* are required to obtain a Check.
4. Ensuring that non-conviction charges (charges that have been finally dealt with other than by a conviction or finding of guilt) for serious sexual, violent or drug offences are considered as part of Check assessments and re-assessments.
5. Enabling the Secretary to the Department of Justice and Regulation to compel the production of certain information for the purposes of compliance monitoring.

Organisations must comply with the [Child Safe Standards](https://ccyp.vic.gov.au/child-safety/being-a-child-safe-organisation/the-child-safe-standards/) <<https://ccyp.vic.gov.au/child-safety/being-a-child-safe-organisation/the-child-safe-standards/>> (external link, opens in a new window) that have been introduced as part of the Victorian Government's response to the [Betrayal of Trust Inquiry](http://www.parliament.vic.gov.au/fcdc/article/1788) <https://www.parliament.vic.gov.au/fcdc/article/1788> (external link, opens in a new window). These are compulsory minimum standards under the Child Wellbeing and Safety Act 2005 that apply to organisations that provide services for children. The standards help ensure the safety of children. Organisations must also comply with the [Reportable conduct scheme](https://ccyp.vic.gov.au/reportable-conduct-scheme/) <https://ccyp.vic.gov.au/reportable-conduct-scheme/> (external link, opens in a new window) requirements that came into effect on 1 July 2017. Further information on the Reportable conduct scheme is included in [Chapter 4.26](#_4.26_Reportable_Conduct)

For more information go to [Commission for Children and Young People](https://ccyp.vic.gov.au/) <https://ccyp.vic.gov.au/> (external link, opens in a new window).

#### Referee checks

Referee checks are a mandatory component of recruitment as they provide the best opportunity to discover past behaviours and predict future behaviour in the workplace. They are an important part of the safety screening process. A minimum of two checks should be carried out to confirm the applicant's suitability, including contact with their most recent employer. Refer to the template example [Safety screening referee check template](https://fac.dhhs.vic.gov.au/safety-screening-referee-check) <https://fac.dhhs.vic.gov.au/safety-screening-referee-check > (external link, opens in a new window).

Funded or registered organisations and authorised agencies may also have obligations to report the outcome of a referee check to the Disability Worker Exclusion Scheme Unit. For further information about this process, refer to the *Disability Worker Exclusion Scheme Instruction (October 2017)* available on the [Disability Worker Exclusion Scheme webpage](https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme) <https://providers.dhhs.vic.gov.au/disability-worker-exclusion-scheme> (external link, opens in a new window).

Note: An offer of employment or placement cannot occur until the completed police record check and any referee checks have been assessed by the funded/registered organisation.

#### Storage of documentation and confidentiality

National police check information and other data obtained as part of the safety screening process must be treated with the highest level of confidentiality and privacy and should be handled in a manner which safeguards it from unauthorised access. Documentation (consent forms, proof of identity information documentation and information provided about an individual’s national police check history) should be used and stored in accordance with the *Privacy and Data Protection Act 2014* and any contractual requirements with the ACIC accredited agency. Refer to [Appendix 6 Record Storage and Destruction](https://fac.dhhs.vic.gov.au/record-storage-and-destruction) <https://fac.dhhs.vic.gov.au/record-storage-and-destruction> (Word 85 KB, opens in a new window) for details.

If a national police check discloses a criminal history, funded/registered organisations should have a standardised method of recording and storing this information, in line with Appendix 6 and this method should be known and understood by all program staff.

#### For further information

Karen Heusner, Safety Screening Coordinator, People and Culture Branch, Department of Health and Human Services  
Telephone: (03) 9096 2575  
Email: [safety.screening@dhhs.vic.gov.au](mailto:safety.screening@dhhs.vic.gov.au)

## 4.6 Occupational health and safety

#### Who does this policy apply to?

This policy applies to organisations funded by the Department of Health and Human Services.

#### Policy purpose

To ensure organisations funded by the department comply with all required Victorian safety laws and applicable safety regulations.

#### Legislation and /or regulation

* [Occupational Health and Safety Act 2004](http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/ohasa2004273/) <http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/ohasa2004273/> (external link, opens in a new window)

* [Occupational Health and Safety Regulations 2017](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/b05145073fa2a882ca256da4001bc4e7/05C39981B52D9E0FCA25810E0021D052/$FILE/17-022sra%20authorised.pdf" \t "_blank) <http://www.legislation.vic.gov.au/Domino/Web\_Notes/LDMS/PubStatbook.nsf/b05145073fa2a882ca256da4001bc4e7/05C39981B52D9E0FCA25810E0021D052/$FILE/17-022sra%20authorised.pdf> (external link, opens in a new window)

#### Organisation requirements

* Maintain a safe workplace
* Eliminate or minimise workplace hazards and risks associated with all hazards and risks
* Provide and maintain safe systems of work
* Provide adequate facilities for the welfare of employees
* Monitor the health of employees and conditions of the working environment
* Provide information, instruction, training and supervision to enable work to be performed safely

An organisation entering into a Service agreement must be aware of and able to provide an appropriate documented system to demonstrate compliance with its occupational health and safety obligations as employers under all relevant State and Federal law, including the *Occupational Health and Safety Act 2004* (the Act). Of particular note are sections 21(1), 21(2), 21(3), 22 and 23 of the Act.

Key to providing a safe work place is applying the principles of the Act. These are:

* The importance of health and safety requires that employees, other persons at work and members of the public be given the highest level of protection against risks to their health and safety that is reasonably practicable in the circumstances.
* Persons who control or manage matters that give rise or may give rise to risks to health or safety are responsible for eliminating or reducing those risks so far as is reasonably practicable.
* Employers and self-employed persons should be proactive, and take all reasonably practicable measures to ensure health and safety at workplaces and in the conduct of undertakings.
* Employers and employees should exchange information and ideas about risks to health and safety and measures that can be taken to eliminate or reduce those risks.
* Employees are entitled, and should be encouraged, to be represented in relation to health and safety issues.

Schedule 1 of the Service agreement sets out the requirements of an organisation to comply with all State and Federal law relevant to its operation.

#### Information sheet

The department requires that all organisations have systems in place to manage their obligations and duty of care under the Act. Any organisational health and safety management system must be auditable to ensure compliance with the Act.

The following items list specific references regarding duties under the Act:

#### Employer obligations (Sections 21, 22 and 23 Duties of Employers to Employees)

**Section 21** covers the duties of employers toward their employees.

**Section 21 (1)** requires an employer to provide and maintain, so far as is reasonably practicable for employees, a working environment that is safe and without risks to health.

**Section 21 (2)** sets out specific duties as examples of what is necessary to comply with the general duty.

**Section 21 (3)** duties of employers are to employees including independent contractors and their employees. These duties are limited to matters over which the employer has, or should have, control, or would have had control but for any agreement between the employer and the independent contractor to the contrary.

**Section 22** describes duties of employers to monitor health and conditions.

**Section 23** an employer must ensure, so far as is reasonably practicable, that persons other than employees of the employer are not exposed to risks to their health or safety arising from the conduct of the undertaking of the employer.

#### Employee obligations (Section 25)

Employee obligations under the Act are covered in section 25. This requires that:

An employee must take reasonable care for his or her own health and safety and for the health and safety of anyone else who may be affected by his or her acts or omissions at the workplace, and to cooperate with his or her employer with respect to any action taken by the employer to comply with any requirements imposed by or under this Act. In addition, employees must not wilfully or recklessly interfere with or misuse safety equipment that is provided. They must not wilfully put at risk the health and safety of others.

#### Consultation (Part 4: Sections 35 (1 and 2) and 36 (1,2 and 3))

The Act clearly defines the duty of employers have to consult with health and safety representatives and/or staff on a range of OHS issues, including making decisions about risk controls, adequacy of facilities and any changes to the workplace, plant or conduct of work that may directly impact on the safety or health of employees.

#### Issue resolution (Section 73)

Section 73 of the Act requires the employer or their representative, and the employees affected by the issue, and/or a designated work group in relation to which the issue has arisen, to work to resolve the health and safety issues at that workplace.

The *Occupational Health and Safety Regulations**2007* Part – 2.2 Issue Resolution Procedures, provides detail on parties to the resolution process, procedures for reporting issues and procedures for resolving issues.

A health and safety issue may include any:

* item in the general duties section of the Act
* hazard or potential hazard, and
* procedural issue relating to health and safety which does not necessarily imply the existence of a health and safety dispute. Issues can be resolved through the prescribed procedure set out in the OHS Regulations Part 2.2, or through an agreed procedure, which provides a step-by-step process to enable the speedy and effective resolution of health and safety issues.

#### Manual handling

The *Occupational Health and Safety Regulations 2007* Part 3.1 Manual Handling emphasise the identification, assessment, control and review of manual handling risks. All organisations should address their manual handling issues by (as a minimum) ensuring compliance to this part of the regulations.

Manual handling covers a wide range of activities including lifting, pushing, pulling, holding, throwing and carrying. It includes repetitive tasks such as packing, typing, assembling, cleaning and sorting, using hand-tools, and operating machinery and equipment.

#### Effective occupational health and safety management

An effective health and safety program will include managing key sector risks such as manual handling, occupational assault and stress. As a minimum, programs should contain:

* specifically designated personnel to be responsible for occupational health and safety functions and activities
* documented occupational health and safety policies and procedures, including safe work procedures and emergency procedures
* appropriate training and information in health and safety for all staff
* an established incident reporting and investigation process, including hazard identification and control mechanisms
* appropriate consultative procedures, and
* monitoring and review processes.

When developing an occupational health and safety program, refer to AS4801 and AS4804.

#### Duties relating to incidents - notification of incidents to WorkSafe Victoria (sections 37, 38 and 39)

Part 5 of the Act refers to the notification of incidents:

Section 37 defines the incidents to which part 5 applies

Section 38 explains the requirements of the 'Duty to notify', and

Section 39 describes the requirement to preserve the site.

Note: Relevant incident(s) must be reported to WorkSafe Victoria by calling 132 360, immediately after becoming aware of the incident. Written notification must be provided to WorkSafe Victoria within 48 hours.

#### A guide to the Act and advice - WorkSafe Victoria

A *Guide to the Occupational Health and Safety Act 2004* can be obtained from the local WorkSafe Victoria office. WorkSafe Victoria also provides advice on all workplace health and safety issues. The contact telephone number is (03) 9641 1444. Toll free 1800 136 089.

WorkSafe Victoria website: [www.worksafe.vic.gov.au/home](http://www.worksafe.vic.gov.au/home) <http://www.worksafe.vic.gov.au/home> (external link, opens in a new window).

Copies of Victorian Acts and Regulations can be purchased from Information Victoria on 1300 366 356.

#### For further information

Geoff Reany, Manager, Health Safety and Wellbeing Operations  
Telephone: (03) 9096 7575  
Email: [geoff.reany@dhhs.vic.gov.au](mailto:geoff.reany@dhhs.vic.gov.au)

## 4.7 Workers Compensation

#### Who does this policy apply to?

This policy applies to organisations funded by the Department of Health and Human Services.

#### Policy purpose

To ensure organisations funded by the department comply with WorkCover requirements, and are aware of the support the department may provide to assist with accessing premium discounts.

#### Legislation and /or regulation

[*Workplace Injury Rehabilitation and Compensation Act 2013*](http://www.austlii.edu.au/au/legis/vic/num_act/wiraca201367o2013530/)<http://www.austlii.edu.au/au/legis/vic/num\_act/wiraca201367o2013530/> (external link, opens in a new window)

[Compliance code 1 Providing employment, planning and consultation about return to work](http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/return-to-work-compliance-code-1-of-4) <http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/return-to-work-compliance-code-1-of-4> (external link, opens in a new window)

[Compliance code 2 Return to work coordinators](http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/return-to-work-compliance-code-2-of-4) <http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/return-to-work-compliance-code-2-of-4> (external link, opens in a new window)

[Compliance code 3 Return to work information](http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/return-to-work-compliance-code-3-of-4) <http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/return-to-work-compliance-code-3-of-4> (external link, opens in a new window)

[Compliance code 4 Cooperating with labour hire employers about return to work](http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/return-to-work-compliance-code-4-of-4) <http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/return-to-work-compliance-code-4-of-4> (external link, opens in a new window)

#### Organisation requirements

Under the Workplace Injury Rehabilitation and Compensation Act 2013 (the Act), organisations with a rateable remuneration level in excess of $7,500 are required to have a WorkCover policy with a WorkSafe authorised agent (insurer). A list of agents is available on the [WorkSafe website](http://www.worksafe.vic.gov.au/) <http://www.worksafe.vic.gov.au/> (external link, opens in a new window).

Under the Act employers have the following obligations:

* where the employer is liable for a claim, the employer must pay compensation in respect of an injury arising out of or in the course of any employment determined in accordance with the Act
* must provide information relevant to a claim for compensation in accordance with Section 9 Access to information
* must comply with the obligations of an employer specified in:
* Part 4 Division 2—Obligations of employers  
  103 Provide employment  
  104 Plan return to work  
  105 Consult about the return to work of a worker  
  106 Return to work co-ordinator to be appointed  
  107 Make return to work information available  
  108 Employer to notify Authority of return to work of worker  
  109 Host to co-operate with labour hire employer
* Part 7 Actions and proceedings for damages
* Part 10 Premiums and registration of employers.

Employers are required to meet these obligations (provide suitable employment, plan and consult about return to work, host employers supporting for return to work) ‘to the extent that it is reasonable to do so’.

WorkSafe can impose penalties when employers fail to meet their responsibilities under the Act.

Guidelines for implementing WorkCover obligations are available on the [WorkSafe website](http://www.worksafe.vic.gov.au/) <http://www.worksafe.vic.gov.au/> (external link, opens in a new window) and from authorised WorkCover agents. The WorkSafe Advisory Service can be contacted on (03) 9641 1444.

Note: An organisation's employees are not covered by the department's WorkCover policy.

#### Premium discount

WorkSafe offers:

* a five per cent discount to eligible organisations where the full WorkCover premium is paid by early August (date changes each year) as a lump sum instead of by instalments
  + a three per cent discount to eligible organisations where the full WorkCover premium is paid by 1 October as a lump sum instead of by instalments.

The department may advance Service agreement funding to facilitate non-government organisations accessing the WorkCover premium discount. Where the department is a substantial income source and provides 80 per cent or more of the organisation's total income, this test will be met. Where the percentage of income provided by the department is less than 80 per cent, it will be considered on a case by case basis.

Organisations whose funding is transferring to the National Disability Insurance Scheme should consider the cash flow implications of any advance in Service agreement funding. If an organisation’s Service agreement funding is to be transitioned to the National Disability Insurance Authority during the current financial year, the organisation will need to repay any outstanding cash flow advancement to the department.

Organisations are to put their request for adjustments to funding cash flow in writing and address it to their departmental contact. The request is to include the following:

* amount requested (up to the discounted premium total)
* confirmation that the advanced cash flow is requested to obtain the discount
  + copy of the WorkCover premium statement.

Further information on the premium discount is available from the [WorkSafe website](http://www.worksafe.vic.gov.au/) <http://www.worksafe.vic.gov.au/> (external link, opens in a new window).

#### For further information

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## 4.8 Victorian Charter of Human Rights and Responsibilities

#### Who does this policy apply to?

This policy applies to individuals or organisations funded by the Department of Health and Human Services and the Department of Education and Training.

#### Policy purpose

To ensure organisations funded by the departments are aware of human rights which are relevant to their work, and comply with their obligations under the Charter of Human Rights and Responsibilities, particularly when performing functions of a public nature on behalf of the State or another public authority.

#### Legislation and /or regulation

[Charter of Human Rights and Responsibilities Act 2006](http://www.austlii.edu.au/au/legis/vic/consol_act/cohrara2006433/) <http://www.austlii.edu.au/au/legis/vic/consol\_act/cohrara2006433/> (external link, opens in a new window)

#### What is the Charter?

The *Charter of Human Rights and Responsibilities Act 2006* (Charter) is a Victorian Act of Parliament that protects and promotes 20 civil and political rights including but not limited to the right to vote, the right to privacy and the right to be free from discrimination. The Charter is based on the United Nations treaty, the International Covenant on Civil and Political Rights to which Australia is a signatory. The Charter is available on the [Victorian Legislation and Parliamentary Documents website](http://www.legislation.vic.gov.au/) <http://www.legislation.vic.gov.au/> (external link, opens in a new window).

The Charter seeks to protect and promote basic human rights by ensuring that public powers and functions are exercised in a principled way and that public power is not misused. It complements a number of other pieces of legislation that are aimed at regulating the relationship between individuals and the State.

#### Organisation requirements

The Charter requires an organisation or an individual which is a ‘public authority’, including when exercising functions of a public nature on behalf of a public authority:

* to consider relevant human rights protected by the Charter and act compatibly with those rights, when it makes any decision or takes any action that affects another individual's human rights under the Charter
* to consider human rights protected by the Charter when developing and implementing policies and providing services
* to only limit the human rights protected by the Charter where the limitation is reasonable in the circumstances, based on the standards in a free and democratic society, including human dignity, equality and freedom.

#### Do the departments and funded organisations have obligations under the Charter?

One important way the Charter protects rights is by placing obligations on public authorities. The department is a public authority, but so too are other organisations, including some of the organisations funded by the department. Outlined below are criteria to determine whether your organisation is a public authority, and the obligations of public authorities.

#### What is a Public Authority?

The Charter identifies three categories of organisations or individuals defined as public authorities which have obligations under the Charter:

Bodies or individuals listed in the Charter including among others:

* public servants
* local councils
* Victoria Police
  + organisations listed in regulations made under the Charter.

Entities established under legislation that perform functions of a public nature such as:

* public hospitals
* cemetery trusts
* Child Safety Commissioner
  + Infertility Treatment Authority.

Entities that exercise functions of a public nature on behalf of the State or another public authority, whether under contract or otherwise.

A body or individual which is a public authority must comply with the Charter in carrying out functions of a public nature. Organisations or individuals who perform a number of functions may only have obligations under the Charter with respect to those functions which are of a public nature. However, as a matter of best practice, they may choose to comply with the Charter in respect of all activities that affect human rights.

#### How do you know if you are performing functions of a public nature?

It may not always be clear whether organisations or individuals that perform functions of a public nature constitute a public authority. The following questions may assist in clarifying whether their functions are of a public nature:

* Does legislation give the organisation or individual that function? For example, regulations impose certain obligations on BreastScreen Victoria Inc in relation to keeping a register.
* Is the function one that is usually connected to or generally identified with functions of government? For example, the provision of public hospital services.
* Is the organisation or individual funded by a public authority to perform that function? Examples include out of home care services for children, community-based child and family services and disability services.
* Is the function one of a regulatory nature, such as regulating a profession?
  + Is the organisation or individual performing the functions on behalf of the State, a department, or another public authority?

In many cases, it is clear when a function is being performed for the State or another public authority. Examples include provision of public hospital services and out of home care services for children. Often it will depend on the circumstances of each case. However, the Charter specifies that:

* the fact that an organisation is publicly funded to perform a function does not necessarily mean that the organisation is performing the function on behalf of the State
  + an organisation does not have to be an agent of the State to be acting on behalf of the State.

These factors are not exhaustive or conclusive. Some of the factors may be present when an organisation or individual is performing a function that is not of a public nature.

If an organisation or individual is unclear as to whether they are a public authority for the purposes of the Charter, they may choose to seek further legal advice or act compatibly with the Charter in the exercise of their functions as a matter of best practice.

#### What obligations do you or your organisation have as a public authority?

If an organisation or individual which is a public authority acts or makes any decision that affects another individual's rights as set out in the Charter, it must consider the relevant human rights in the Charter and act compatibly with those rights. This means that public authorities must consider the rights protected by the Charter when they make decisions, set policies and provide services.

There are steps that organisations and individuals can follow to ensure that they comply with these obligations including:

* thinking about where human rights are relevant to their activities and decisions that they make
* where rights are relevant to the decision or action, consider whether or not the decision or action is limiting a human right in the Charter
* being able to demonstrate that any limitation on a human right is reasonable and to consider whether the limitation is lawful, necessary, and proportionate in the circumstances.

It is important to understand that the Charter permits the reasonable limitation of human rights in particular circumstances.

Entities will make decisions and apply procedures that impact on an individual's human rights. This action is still compatible with the Charter as long as it can be demonstrated that the limitation on the right is reasonable.

A ‘reasonable’ limitation is determined based on the standards in a free and democratic society including human dignity, equality and freedom and taking into account:

* the nature of the right
* the importance and purpose of the limitation
* the nature and extent of the limitation
* the relationship between the limitation and its purpose
* whether there is any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

#### Exceptions from the obligation to comply with the Charter

A public authority is not obliged to comply with the Charter where:

* a Victorian law or a Commonwealth law means that the public authority cannot comply
* the act or decision is of a private nature
* compliance with the Charter would prevent a religious body (including the public authority itself if it is a religious body) from conforming with the religious doctrines, beliefs or principles in accordance with which the religious body operates.

#### Breaches of human rights

An individual cannot take legal action if his or her sole reason is based on a breach of an obligation under the Charter. However, the Charter allows a person to raise a human rights argument in a court or tribunal in a case involving a claim that a decision or act of a public authority is unlawful on non-Charter grounds. The Ombudsman also has the power to investigate whether any administrative action is incompatible with a human right set out in the Charter.

The Charter does not provide for compensation for a breach of Charter rights.

#### List of human rights protected by the Charter

The Charter protects the following human rights:

* recognition as a person and equality before the law, and to protection against discrimination
* right to life
* protection from torture and cruel, inhuman and degrading treatment, and not to be subject to medical or scientific experimentation or treatment without consent
* freedom from slavery or forced work
* freedom of movement
* right to not have one’s privacy, family, home or correspondence arbitrarily or unlawfully interfered with, and one’s reputation unlawfully attacked
* freedom of thought, conscience, religion and belief
* freedom of expression
* peaceful assembly and freedom of association
* protection of families and children by society and the State
* right to take part in public life
* practice and enjoy culture, religion and language
* to not be deprived of property other than in accordance with law
* liberty and security of person
* humane treatment when deprived of liberty
* detained child to be segregated from detained adults
* fair hearing
* presumption of innocence when charged with a criminal offence
* not to be tried or punished more than once for an offence in which a final conviction or acquittal has been made in accordance with the law
* with respect to the operation of certain retrospective criminal laws.

#### For further information

[Department of Justice and Regulation website](http://www.justice.vic.gov.au/) <http://www.justice.vic.gov.au/> (external link, opens in a new window)

[Victorian Equal Opportunity and Human Rights Commission website](http://www.humanrightscommission.vic.gov.au/) <http://www.humanrightscommission.vic.gov.au> (external link, opens in a new window)

[Funded agency channel](https://fac.dhhs.vic.gov.au) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window)

## 4.9 Funded Organisation Performance Monitoring Framework

#### Who does this policy apply to?

The Funded Organisation Performance Monitoring Framework (monitoring framework) applies to organisations funded through a Service agreement with the department.

Organisations in scope include non-for-profits, for-profits, universities, local governments, public/private hospitals (for their non-acute services) and consortium arrangement.

The Desktop Review and components of the monitoring framework do not apply to hospitals, local governments, organisations funded under the National Disability Insurance Scheme (not currently funded by the department), universities, TAFEs, schools and some specific community participation and Department Education and Training.

The Service agreement Compliance Certification (SACC) does not apply to hospitals.

#### Policy purpose

The monitoring framework is a key instrument to demonstrate accountability for effective and efficient expenditure of public funding by funded organisations for the benefit of service users. It focuses on mitigating risk while managing the reporting burden.

It provides a uniform set of tools and policies for monitoring of organisations funded through a Service agreement as represented by the Department of Health and Human Services to ensure a transparent and consistent approach to performance monitoring.

The Royal Commission into Child Sexual Abuse in Institutional Settings has highlighted the need for an effective oversight of funded services in the areas of governance, service delivery and financial management.

The monitoring framework seeks to confirm that funded organisations address key departmental policies and a Service agreement requirement, which ensures that service users receive quality care and services meet appropriate standards and community expectations.

#### Legislation and /or regulation

Various legislation about legal entity requirements, for example *Companies Act*; *Disability Act 2006*; *Children Youth and Families Act 2005*; *Educational and Care Services National Law Act 2010*.

The Service agreement’s quality of service delivery clauses says '...all applicable Laws including Laws relating to fire protection, industrial relations and employment, and health, and general safety and taxation.'.

#### Organisation requirements

Understanding the requirements of policies and standards as defined in schedule 1 of the Service agreement.

Providing information requested by the department regarding their performance in relation to Service agreement targets and compliance to defined policies.

Confirm key performance issues with department monitoring staff.

Work in collaboration with the department to develop and implement appropriate actions to address key performance issues or service quality risks.

Participation in service reviews if required.

#### Introduction

The departments are required to monitor organisations receiving funding through a Service agreement. Monitoring is undertaken on an ongoing basis through the collection of information and through the regular engagement between departmental staff and organisations.

The monitoring framework provides an end-to-end process for monitoring funded organisations’ compliance with the Service agreement. It confirms the key policy and operational requirements to be applied and outlines a common set of tools to assess an organisation’s performance, ensuring all funded organisations across the state will be engaged in a consistent manner and assessed on defined key risk areas.

The monitoring framework has the following objectives:

* ensures that Service agreement monitoring reflects community expectations about client safety and wellbeing
* promotes greater collaboration between government and funded organisations in the identification and management of risk
* fosters greater understanding in funded organisations of their accountabilities under the agreement
* provides improved transparency, efficiency and consistency in monitoring processes and responses to risk and performance issues
* provides improved access for monitoring staff to funded organisation performance information
* embeds key Departmental policies in monitoring processes and systems
* prioritises monitoring resources to ensure issues in funded organisations that pose the greatest risk are addressed first
* improves reporting and analysis of funded organisation performance to inform service planning, sector capacity building initiatives, staff training and continuous improvement of systems and monitoring tools
* reduces administrative burdens for department staff and funded organisations.

#### Scope of the monitoring framework

The monitoring framework applies to organisations funded through a Service agreement with the Department of Health and Human Services or the Department of Education and Training.

The Department of Education and Training will be applying the new monitoring framework in 2016 and advise funded organisations of the commencement date for the use of the new monitoring tools and processes.

Organisations in scope include non-for-profits, for-profits, universities, local governments, public/private hospitals (for their non-acute services) and consortium arrangement.

The Desktop Review and components of the monitoring framework do not apply to hospitals, local governments, organisations funded under the National Disability Insurance Scheme (not currently funded by the department), universities, TAFEs, schools and some specific DET/community participation activities.

The Service agreement Compliance Certification (SACC) does not apply to hospitals.

The department and funded organisations have joint responsibility to detect issues and problems that may impact on service user safety and wellbeing and the ongoing provision of quality and sustainable services. In the course of administering the FOPMF, departmental monitoring staff may become aware of an allegation of fraud or corruption within an organisation. Where this occurs, departmental monitoring staff are to advise the department’s Corporate Integrity Unit. The department’s Corporate Integrity Unit will work with monitoring staff to make an assessment of the identified risk and determine next steps. Organisations should seek advice from the department’s Corporate Integrity Unit about the allegation of fraud or corruption even if the organisation is managing the situation internally.

#### Components of the monitoring framework

The monitoring framework consists of three components involving the use of specific monitoring tools and processes to assess organisations’ performance against the Service agreement requirements. The components are:

**Service agreement Monitoring** undertaken on an ongoing basis through the collection of information and regular engagement between departmental staff and organisations.

Monitoring is focused on assessing key risk areas related to governance, financial management and service delivery. It involves evidence gathering and the tracking and documenting of an organisation’s outcomes and achievements. This monitoring is core to determining an organisation’s capacity to deliver service user safety and wellbeing and service quality and innovation.

**Risk assessment of identified performance issues** an assessment undertaken by departmental staff using risk assessment guidelines to assess the severity of any identified performance issues. This process supports the Department and funded organisations to consistently determine the level of risk and develop effective actions for remediation.

**Responses to performance issues** where performance issues have been identified through Service agreement monitoring departmental staff and organisations will work through how it can be managed and remediated. Monitoring staff will respond to performance issues with remedial actions or a service review.

In rare cases there may be serious allegations or evidence that a funded organisation has significantly breached the Service agreement. A Service Review will be undertaken by the Department to determine if remedial actions can be put in place or if the Department needs to take other actions to ensure the safety and wellbeing of service users and provision of quality services.

#### Key tools

The following tools are used by departmental staff to support consistent monitoring of funded organisations:

**Service agreement monitoring checklists** are used throughout the year to ensure evidence gathering and discussions with funded organisations address the requirements of the Service agreement and have a focus on the key risk areas.

**Desktop review** provides an annual assessment of whole of funded organisation performance from information collected throughout the year. The Desktop Review Report is shared with funded organisations.

**Service agreement compliance certification** requires funded organisations to certify to the department that they are compliant with the requirements of defined clause and policies outlined in the Service agreement.

**Specialist checklists** are used by departmental staff in the monitoring the performance of funded organisation’s in addressing defined policy/program requirements of the Service agreement. Current specialist checklist is focused on service quality for example for children and young people living in residential facilities.

#### For further information

The [Funded Organisation Performance Monitoring Framework: overview for the funded sector](https://fac.dhhs.vic.gov.au/policies-and-procedures) <https://fac.dhhs.vic.gov.au/policies-and-procedures> (external link, opens in a new window) provides further guidance on key components and process of the framework.

Email: [monitoring.framework.helpdesk@dhhs.vic.gov.au](mailto:monitoring.framework.helpdesk@dhhs.vic.gov.au)

## 4.10 Pandemic business continuity planning

#### Pandemic planning

Pandemic events pose a challenge for the continued provision of all services. Organisations are required to exercise their duty of care to protect the health and wellbeing of their employees, contractors, visitors and customers (including families and children). Accordingly, adequate business continuity planning, including pandemic planning, is required to enable the organisations to continue to deliver their key services to the community.

It is expected that organisation would work closely with local government and health authorities to manage the consequences of pandemic events.

#### Business continuity planning

Funded organisations are required to have Business continuity plans (BCPs) in place to continue to deliver these services. Conversely, you may need to plan for scaling down or standing down non-essential services.

Business continuity planning is the process by which business as usual operations and services are maintained to ensure critical business processes can continue to operate effectively, following a disruption to the organisation. Business continuity planning improves organisational resilience whilst minimising safety, financial, operational, reputational risks and/or other damaging consequences.

BCPs outline workaround strategies that an organisation would invoke in case of a disruption. Invoking the BCPs assists in the recovery efforts to ensure critical business processes can continue to operate.

Every organisation will benefit from having a BCP in place. BCPs that address such key disruption scenarios as loss of staff, building, IT and key supplier(s) provide an opportunity to respond to and recover from a vast array of disruptions events including pandemics, floods, fires etc.

During pandemic events, business continuity strategies about loss of staff and loss of suppliers need to consider the management of absenteeism of key employees and volunteers as well as significant interruptions to supplies. It is particularly important that small organisations with limited staff and resources prepare carefully to reduce the impact of a pandemic on the continuity of their service.

During a disruption, staff and volunteers are likely to be concerned about their well-being and the well-being of their families and customers. For example, during a pandemic, between 30 and 50 per cent of an organisation’s staff and volunteers may become ill, which could have a significant impact on an organisation. The remaining staff and volunteers, not affected by the pandemic, may not show up to work. The commitment of your organisation to business continuity, including pandemic business continuity planning, is likely to assure staff and volunteers that you are planning ahead and doing your best.

#### Resources

Australian National Audit Office: [Business Continuity Management: Building resilience in public sector entities](https://www.anao.gov.au/search/site/media%20Better%20Practice%20Guides%20Business%20Continuity%20Management%20Business%20continuity%20management) <https://www.anao.gov.au/search/site/media Better Practice Guides Business Continuity Management Business continuity management> (external link, opens in a new window). Appendix IV – Pandemics provides specific information on business continuity and pandemic plans

Department of Health and Human Services, Funded agency channel: [Business continuity management](https://fac.dhhs.vic.gov.au/policies-and-procedures) <https://fac.dhhs.vic.gov.au/policies-and-procedures> (external link, opens in a new window)

Department of Health and Human Services, Health Victoria: [Victorian action plan for pandemic influenza](https://www2.health.vic.gov.au/emergencies/emergency-type/infectious-diseases/pandemic-influenza) <https://www2.health.vic.gov.au/emergencies/emergency-type/infectious-diseases/pandemic-influenza> (external link, opens in a new window)

## 4.11 Climate change adaptation and environmental sustainability

#### Who does this policy apply to?

This policy applies to organisations funded by the Department of Health and Human Services.

#### Policy purpose

To encourage funded organisations to understand and respond to climate change risks, to reduce greenhouse gas emissions, and to implement resource efficiency programs to reduce operational costs.

#### Legislation and /or regulation

Not applicable

#### Organisation requirements

Organisations are encouraged to:

**Climate change adaption**

Understand their climate change risks (to policy and program goals, assets, workforce, services and clients).

Develop and implement resilience plans detailing how they will respond to increased risk of natural disasters and other effects of climate change.

A good basis for undertaking this work is participation in the Health and Human Services Climate Resilience Program. The program is open to organisations funded by the department. Its purpose is to assist organisations to understand climate change risks and prepare for them. The program offers an expert facilitator to work with organisations to improve their climate resilience planning.

**Resource efficiency**

Prepare and implement environmental management plans, track performance and report publicly on improvements in resource efficiency, such as energy, water, waste and greenhouse gas emissions.

#### For further information

Department of Health and Human Services' [Sustainability in healthcare](https://www2.health.vic.gov.au/hospitals-and-health-services/planning-infrastructure/sustainability) <https://www2.health.vic.gov.au/hospitals-and-health-services/planning-infrastructure/sustainability> (external link, opens in a new window) website

[Climate Resilience Program website](https://www.communityresilience.com.au/) <https://www.communityresilience.com.au/> (external link, opens in a new window)

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## 4.12 Language services

The department plays an important role in supporting the health and wellbeing of Victorians from culturally diverse backgrounds.

Language service provision is an important aspect of the department’s efforts to deliver accessible services that respond to the needs of our culturally and linguistically diverse (CALD) and deaf communities, and a significant contributor to achieving our strategic directions of person-centred services and care and advancing quality, safety and innovation.

The department's Language Services Policy and accompanying guidelines, How to work with interpreters and translators, support the departmental and funded organisations in the planning and provision of language services.

Department funded organisations and services are encouraged to develop local language services policies and procedures consistent with this policy.

#### For further information

[Language service policy and guidelines](https://www.dhhs.vic.gov.au/publications/language-services-policy-and-guidelines) <https://www.dhhs.vic.gov.au/publications/language-services-policy-and-guidelines> (external link, opens in a new window).

## 4.13 Cultural diversity planning

The department’s Cultural Diversity Plan, [*Delivering for Diversity 2016-2019*](https://dhhs.vic.gov.au/publications/delivering-diversity-cultural-diversity-plan-2016-2019) *<*https://dhhs.vic.gov.au/publications/delivering-diversity-cultural-diversity-plan-2016-2019*>* (external link, opens in a new window),is a framework to embed cultural diversity in all the department’s services, programs and policies. It builds on our wide-ranging efforts to improve services for culturally and linguistically diverse communities. These communities include those with a long established presence in Victoria, as well as recently arrived migrants, refugees and asylum seekers. Cultural diversity panning recognises that providing culturally responsive, competent, respectful and accessible services is a core responsibility of the department and the services it funds and delivers.

Department funded organisations and services are encouraged to undertake their own cultural diversity planning process in order to meet Victoria’s multicultural objectives to:

• maximise the benefits of our cultural diversity

• build the capacity of culturally and linguistically diverse communities

• promote social cohesion and community resilience

• ensure our services and infrastructure respond to the cultural diversity of our state.

## 4.14 Improving inclusion and access for Aboriginal people and communities

All health and human services has a responsibility to deliver services that are culturally safe, culturally responsive and free of racism. The department’s new *Aboriginal health, wellbeing and safety strategic plan 2017-2027: Korin Korin Balit-Djak* promotes the importance of delivering culturally safe and responsive mainstream health and human services as essential to supporting Aboriginal self-determination and achieving equitable outcomes for Aboriginal people.

A culturally safe and racism-free health and human services system is one in which people feel safe, where there is no challenge or need for the denial of their identity, and where their needs are met. Non-Aboriginal people must take responsibility to understand the importance of culture, country and community to Aboriginal health, wellbeing and safety by working with Aboriginal communities to design and deliver culturally responsive services.

The following resources provide guidelines for improved Aboriginal inclusion and access:

**Korin Korin Balit-Djak: Aboriginal health, wellbeing and safety strategic plan 2017-2027**

The government launched [*Korin Korin Balit-Djak: Aboriginal health, wellbeing and safety strategic plan 2017-2027*](https://www2.health.vic.gov.au/about/health-strategies/aboriginal-health/korin-korin-balit-djak) *<https://www2.health.vic.gov.au/about/health-strategies/aboriginal-health/korin-korin-balit-djak>* (external link, opens in a new window*)* in October 2017. *Korin Korin Balit-Djak* provides an overarching framework for action to advance self-determination and improve the health, wellbeing and safety of Aboriginal people and communities. Underpinned by the principle of self-determination with a focus on improving cultural and social determinants, *Korin Korin Balit-Djak* sets the Victorian Government’s vision and direction for ensuring positive outcomes for Aboriginal Victorians across the breadth and depth of its activities. *Korin Korin Balit-Djak* is accompanied by two other key initiatives to support the improved health, wellbeing and safety of Aboriginal Victorians: *Balit Murrup: Aboriginal social and emotional wellbeing framework*, and the *Aboriginal governance and accountability framework*.

**Balit Murrup: Aboriginal social and emotional wellbeing framework 2017-2027**

[*Balit Murrup: Aboriginal Social and Emotional Wellbeing Framework* 2017-2027](https://www2.health.vic.gov.au/about/publications/policiesandguidelines/balit-murrup-aboriginal-social-emotional-wellbeing-framework-2017-2027) <https://www2.health.vic.gov.au/about/publications/policiesandguidelines/balit-murrup-aboriginal-social-emotional-wellbeing-framework-2017-2027> (external link, opens in a new window) is one of the first three priorities in Victoria’s 10-year mental health plan, which outlines a long-term vision to improve mental health services and outcomes for Victorians with a mental illness. *Balit Murrup* will improve the social and emotional wellbeing of Victorian Aboriginal people and seeks to reduce the incidence, severity and duration of mental illness, reduce suicide rates, and prevent and lessen the devastating impacts of family violence and alcohol and other drug use.

**Aboriginal governance and accountability framework**

The [*Aboriginal governance and accountability framework*](https://dhhs.vic.gov.au/publications/aboriginal-governance-and-accountability-framework) <https://dhhs.vic.gov.au/publications/aboriginal-governance-and-accountability-framework> (external link, opens in a new window) is a commitment to support and embed Aboriginal leadership and self-determination in health, wellbeing and safety.

Its purpose is to enshrine the rightful place of Aboriginal people and communities as central to achieving sustainable improvements in health, wellbeing and safety for Aboriginal Victorians.

The framework aims to:

* embed Aboriginal leadership and decision making at all levels of the department
* strengthen accountability and transparency to the Aboriginal community
  + engage and promote the diversity of Aboriginal voices, particularly from local communities.

The framework will establish a set of robust and interconnected governance mechanisms that extend across the department’s operational divisions and areas. The governance mechanisms will facilitate joint leadership between Aboriginal communities and the department to guide and oversee all Aboriginal policies, programs and initiatives.

*The Aboriginal Governance and Accountability Framework* will provide an Aboriginal-led mechanism for governance of implementation of *Korin Korin Balit-Djak* and, will provide oversight of monitoring and accountability, holding the department to account to improve outcomes in Aboriginal health, wellbeing and safety.

**Supporting Aboriginal Self-Determination: Prioritising Funding to Aboriginal Organisations policy**

As a key direction to supporting self-determination and improving Aboriginal health, wellbeing and safety outcomes in Victoria, the department has launched the [*Supporting Aboriginal Self-Determination: Prioritising Funding to Aboriginal Organisations*](https://www2.health.vic.gov.au/about/policy-and-funding-guidelines) <https://www2.health.vic.gov.au/about/policy-and-funding-guidelines> (external link, opens in a new window) (refer to volumes 1 and 2) as one of its key reforms within *Korin Korin Balit-Djak.*

The policy aims to:

* support Aboriginal self-determination by prioritising Aboriginal-specific funding to Aboriginal organisations providing services that address their community’s health, wellbeing and safety needs and aspirations
* enable Aboriginal communities and organisations to work in partnership with mainstream organisations
* ensure prioritising funding to Aboriginal organisations works in conjunction with mainstream sector’s commitment to, and focus on, improving Aboriginal health, wellbeing and safety outcomes
* supports the Aboriginal workforce through building organisational strength and capabilities, and increased workforce retention.

Early transition to the new policy began 1 July 2017, and applies to newly funded programs and initiatives from Aboriginal health and wellbeing funding (formerly known as Koolin Balit funding).

The department is currently conducting a review of all funding that targets Aboriginal people and communities, in order to develop an implementation plan to transition funding. An implementation and communications plan will be released by April 2018. The first phase of implementation will being 1 July 2018 and will apply to all Aboriginal health and wellbeing funding. Further transition phases will be detailed in the implementation plan.

**The Victorian Aboriginal Affairs Framework 2013-2018**

The *Victorian Aboriginal Affairs Framework (VAAF)* is the Victorian Government’s overarching framework that brings together government and Aboriginal community commitments and efforts to create a better future and improve outcomes for Aboriginal Victorians. The VAAF guides policy and funding priorities in Aboriginal affairs, and sets out how government will be held accountable for achieving those priorities.

As the end of the current VAAF term draws near, there is opportunity to reflect and build upon current indicators to recognise that strategic action is required across government to advance Aboriginal self-determination and improve outcomes. Broad community engagement is occurring throughout Victoria on what these agendas should look like in the future. Adopting a self-determination agenda, the Victorian Government will be led by Aboriginal Victorians around what the new Victorian Aboriginal Affairs framework should look like.

The publication is available on the [Aboriginal Victoria website](http://www.dpc.vic.gov.au/index.php/aboriginal-affairs/aboriginal-affairs-policy/victorian-aboriginal-affairs-framewor) <http://www.dpc.vic. gov.au/index.php/aboriginal-affairs/aboriginal-affairs-policy/victorian-aboriginal-affairs-framework> (external link, opens in a new window).

**Roadmap for reform: strong families, safe children**

[Roadmap for reform: strong families, safe children](http://www.strongfamiliessafechildren.vic.gov.au/roadmap-for-reform-strong-families-safe-children) <http://www.strongfamiliessafechildren.vic.gov.au/> (external link, opens in a new window) focuses on prevention and early intervention. Creating services that are coordinated and working together to meet the needs of vulnerable families and children in Victoria. The Roadmap sets out once-in-a-generation changes designed to improve the lives of vulnerable Victorian children, young people and families. The Roadmap aims to deliver a system focused on:

* strengthening communities to better prevent neglect and abuse
* delivering early support to children and families at risk
* keeping more families together through crisis
* securing a better future for children who cannot live at home.

**Health 2040: Advancing health, access and care**

[*Health 2040: advancing health, access and care*](https://www2.health.vic.gov.au/about/publications/policiesandguidelines/Health-2040-advancing-health-access-and-care) <https://www2.health.vic.gov.au/about/publications/policiesandguidelines/Health-2040-advancing-health-access-and-care> (external link, opens in a new window) presents a clear vision for the health and wellbeing of Victorians and for the Victorian healthcare system. Health 2040 is built around three pillars:

* **Better health**: focuses on prevention, early intervention, community engagement and people's self-management to maximise the health and wellbeing of all Victorians.
* **Better access**: focuses on reducing waiting times and delivering equal access to care via statewide service planning, targeted investment, and unlocking innovation.
* **Better care**: focuses on people's experience of care, improving quality and safety, ensuring accountability for achieving the best health outcomes, and supporting the workforce to deliver the best care.

**Victorian public health and wellbeing plan 2015–2019**

The [Victorian public health and wellbeing plan 2015-2019](https://www2.health.vic.gov.au/about/health-strategies/public-health-wellbeing-plan) <https://www2.health.vic.gov.au/about/health-strategies/public-health-wellbeing-plan> (external link, opens in a new widow) outlines the government’s key priorities to improve the health and wellbeing of Victorians, with a particular focus on addressing inequities in health outcomes. The release of the Victorian public health and wellbeing outcomes framework provides a new approach to monitoring and reporting on our collective efforts to improve health and wellbeing over the long term.

**Absolutely everyone: State disability plan 2017–2020**

The [State disability plan 2017-2020](http://www.statedisabilityplan.vic.gov.au) <http://www.statedisabilityplan.vic.gov.au> (external link, opens in a new window) is the way the government is taking a lead on promoting the inclusion of Victorians with a disability. It is an opportunity to change the way we think about disability as we go about the major activities of government. We also know that working in partnership with business and communities is critical in changing attitudes and outcomes.

**For further information**  
Aboriginal Health and Wellbeing  
Telephone: (03) 9096 7242  
Email: [aboriginalhealth@dhhs.vic.gov.au](mailto:aboriginalhealth@dhhs.vic.gov.au)

## 4.15 Multiple and complex needs initiative (MACNI)

#### Who does this policy apply to?

The [Multiple and Complex Needs Initiative service provision framework](http://providers.dhhs.vic.gov.au/multiple-and-complex-needs-initiative) <http://providers.dhhs.vic.gov.au/multiple-and-complex-needs-initiative> (external link, opens in a new window) applies to programs and organisations funded by the Department of Health and Human Services to fulfil MACNI tasks.

#### Policy purpose

To ensure programs and organisations funded to provide Multiple and Complex Needs Initiative (MACNI) services are aware of and comply with operational guidelines and relevant legislation.

#### Legislation and /or regulation

[Human Services (Complex Needs) Act 2009](http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num_act/hsna200916o2009334/) <http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num\_act/hsna200916o2009334/> (external link, opens in a new window)

#### Organisation requirements

MACNI is a joint initiative of the Department of Health and Human Services and the Department of Justice and Regulation. MACNI provides assessment, care plan coordination and brokerage funding for people with multiple and complex needs that challenge existing legislative frameworks and service systems.

MACNI promotes collaborative cross program planning and support at the local level. It provides a highly-targeted specialist intervention for eligible individuals that:

* stabilises housing, health, social connection and safety
* provides a platform for long term engagement in the service system
  + pursues planned and consistent therapeutic goals for each person.

MACNI is complementary to, and does not replace, existing services or systems of support for individuals with multiple and complex needs. Successful implementation of MACNI requires existing service providers to respond to the needs of people within the target group in accordance with the guiding principles of the Act.

Access to MACNI is via consultation with the MACNI Divisional Coordinator appointed in each of the department’s operational divisions.

#### For further information

Shane Beaumont, Manager, Complex Support and Systemic Improvement, Service Implementation and Support, Children, Families, Disability and Operations Division  
Telephone: (03) 9096 2523  
Email: [shane.beaumont@dhhs.vic.gov.au](mailto:shane.beaumont@dhhs.vic.gov.au)

## 4.16 With respect to age - 2009 (elder abuse prevention practice guidelines)

#### Who does this policy apply to?

This guide applies to manager/s and workers that support older people in:

* health services such as hospitals (including emergency departments); rehabilitation and subacute services, nursing and allied health services provided in the home and other settings, community health services
* community based agencies such as: local government; not-for-profit organisations and private organisations involved in that provision of community aged care services (including Commonwealth funded services); respite services; mental health services for older people; community legal aid services; family violence support services; services that support the indigenous community and services that support people from culturally and linguistically diverse backgrounds.

#### Policy purpose

The purpose of this guide is to:

* outline the Victorian Government response to the abuse of older people who live in their home, in the community
* provide practical guidance to develop agency policies and procedures to respond and act on suspicion or allegation of elder abuse
* support the development and review of interagency protocols that enable cooperation in responding to elder abuse
* provide a range of resources that assist and reinforce the development of policies, procedures and protocols
* strengthen the capacity of health services and community service organisations to respond with confidence to prevent and to address, elder abuse as required.

#### Legislation and /or regulation

This guide is not bound by one legislation or regulation.

#### Organisation requirements

Funded organisations are obliged to consider these guidelines. The approach is a combination of service responses and legal interventions which protect the independence, dignity and safety of senior Victorians.

The Victorian Government’s approach is based on empowering older people, consistent with the universal human right to live life free from violence and abuse. It also reflects a commitment to support the safety, security and dignity of all older people in our community.

The *Victorian Government practice guidelines for health services and community agencies for the prevention of elder abuse* have been updated. These practice guidelines *With respect to age – 2009* are available at the [Health website](https://www2.health.vic.gov.au/ageing-and-aged-care/wellbeing-and-participation/preventing-elder-abuse) <https://www2.health.vic.gov.au/ageing-and-aged-care/wellbeing-and-participation/preventing-elder-abuse> (external link, opens in a new window).

#### For further information

Contact the Elder Abuse Prevention and Response Initiative

email: [elder.abuse@dhhs.vic.gov.au](mailto:elder.abuse@dhhs.vic.gov.au)

## 4.17 Vulnerable people in emergencies

#### Who does this policy apply to?

The policy applies to organisations funded by the department and any other organisations that provide personal care, support and/or case management services either in home or community settings, to clients living in the community, and to the municipal councils themselves, within the 64 municipal council areas wholly or partly covered by the Country Fire Authority.

#### Policy purpose

The purpose of the policy is to improve the safety of vulnerable people in emergencies.

#### Legislation and /or regulation

Nil

#### Organisation requirements

Organisations’ obligations under the policy are to:

* participate with councils in identifying and listing sites where vulnerable people are likely to be situated
* appoint an agency coordinator for the Vulnerable Persons Register
* screen community-based clients using vulnerable persons criteria for personal emergency planning or consideration for inclusion on a vulnerable persons register
* provide/arrange personal emergency planning for suitable vulnerable clients
  + register and maintain client information on municipal Vulnerable Persons Register(s).

The department is responsible for the *Vulnerable people in emergencies policy - May 2015* (the policy). The policy responds to Recommendation 3 of the Victorian Bushfires Royal Commission Final Report, and related recommendations, and is developed to improve the safety of vulnerable people in emergencies, through supporting emergency planning with and for vulnerable people.

The policy uses the existing relationships with funded organisations in supporting clients to improve their safety and resilience through promoting personal emergency planning. Policy requirements apply to organisations funded by the Department of Health and Human Services (not Department of Education and Training) to provide personal care, support and/or case management services either in home or community settings, to clients living in the community within the 64 municipal council areas wholly or partly covered by the Country Fire Authority districts. This includes health or community care services such as home and community care, personal care or disability day programs.

The policy and other emergency management information is available on the [Providers website](file:///\\n068\group\BDB\SA%20Mgmt%20Group\SAIK\SAIK%202018%20Update\Providers%20website) <https://providers.dhhs.vic.gov.au/emergency-preparedness> (external link, opens in a new window).

#### For further information

#### Department of Health and Human Services

For further information, contact the Emergency Management Branch [recovery@dhhs.vic.gov.au](mailto:recovery@dhhs.vic.gov.au)

## 4.18 Emergency preparedness policy

#### Who does this policy apply to?

The *Health and human services sector emergency preparedness policy* applies to all types of client services that are regulated, delivered or funded by the department, and all services delivered from property that is owned or managed by the department.

#### Policy purpose

The purpose of the policy is to protect and enhance the health and safety of people accessing services from Victoria’s health and human services sector.

#### Legislation and /or regulation

[Disability Act 2006 (Vic)](http://www.austlii.edu.au/au/legis/vic/consol_act/da2006121/) <http://www.austlii.edu.au/au/legis/vic/consol\_act/da2006121/> (external link, opens in a new window)

[Children Youth and Families Act 2005 (Vic)](http://www.austlii.edu.au/au/legis/vic/consol_act/cyafa2005252/) <http://www.austlii.edu.au/au/legis/vic/consol\_act/cyafa2005252/> (external link, opens in a new window)

[Residential Tenancies Act 1997 (Vic)](http://www.austlii.edu.au/au/legis/vic/consol_act/rta1997207/) <http://www.austlii.edu.au/au/legis/vic/consol\_act/rta1997207/> (external link, opens in a new window)

[Aged Care Act 1997 (Cth)](http://www.austlii.edu.au/au/legis/cth/consol_act/aca199757/) <http://www.austlii.edu.au/au/legis/cth/consol\_act/aca199757/> (external link, opens in a new window)

[Mental Health Act 2014 (Vic)](http://www.austlii.edu.au/au/legis/vic/num_act/mha201426o2014174/) <http://www.austlii.edu.au/au/legis/vic/num\_act/mha201426o2014174/> (external link, opens in a new window)

[Public Health and Wellbeing Act 2008 (Vic)](http://www.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/) <http://www.austlii.edu.au/au/legis/vic/consol\_act/phawa2008222/> (external link, opens in a new window)

[Health Services Act 1988 (Vic)](http://www.legislation.vic.gov.au/domino/Web_notes/LDMS/PubLawToday.nsf/95c43dd4eac71a68ca256dde00056e7b/18b33f1d4d852609ca256f0200198528!OpenDocument) <http://www.legislation.vic.gov.au/domino/Web\_notes/LDMS/PubLawToday.nsf/95c43dd4eac71a68ca256dde00056e7b/18b33f1d4d852609ca256f0200198528!OpenDocument> (external link, opens in a new window)

[Home and Community Care Act 1985 (Cth)](https://www.legislation.gov.au/Series/C2004A03223) <https://www.legislation.gov.au/Series/C2004A03223> (external link, opens in a new window)

[Supported Residential Services (Private Proprietors) Act 2010 (Vic)](http://www.austlii.edu.au/au/legis/vic/num_act/srspa201049o2010631/) <http://www.austlii.edu.au/au/legis/vic/num\_act/srspa201049o2010631/> (external link, opens in a new window)

#### Organisation requirements

The department’s obligations require that service providers develop emergency management plans to ensure the safety and wellbeing of clients and the staff who support them.

The policy provides general advice for emergency management planning and preparedness as well as specific policy direction for services areas where a higher level of planning is needed.

The policy assists the department and funded organisations to prepare for and respond to emergencies. It describes the sector’s responsibilities and considerations to prepare for and respond to all types of emergencies. It seeks to achieve a consistent sector-wide approach, taking into consideration the local environment, conditions and resources.

The policy and other emergency management information is available on the [Providers website](file:///\\n068\group\BDB\SA%20Mgmt%20Group\SAIK\SAIK%202018%20Update\Providers%20website) <https://providers.dhhs.vic.gov.au/emergency-preparedness> (external link, opens in a new window)

#### For further information

Contact the Emergency Management Branch [empolicy@dhhs.vic.gov.au](mailto:empolicy@dhhs.vic.gov.au)

## 4.19 Asset management accountability framework

#### Who does this policy apply to?

This policy applies to public bodies such as Health Services that are subject to the *Financial Management Act 1994.*

#### Policy purpose

The Asset management accountability framework seeks to ensure assets are managed efficiently and effectively.

#### Legislation and /or regulation

Standing Directions of the Minister for Finance under [Financial Management Act 1994 (Vic)](http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/fma1994164/) <http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/fma1994164/> (external link, opens in a new window)

#### Organisation requirements

The framework details mandatory asset management requirements as well as general guidance for agencies responsible for managing assets. Mandatory requirements include

* developing asset management strategies,
* governance frameworks,
* performance standards and processes to regularly monitor and improve asset management,
* establishing systems for maintaining assets and
* processes for identifying and addressing performance failures.

#### For further information

Refer to the [What is asset management](http://www.dtf.vic.gov.au/Investment-Planning-and-Evaluation/Understanding-investment-planning-and-review/What-is-asset-management) <http://www.dtf.vic.gov.au/Investment-Planning-and-Evaluation/Understanding-investment-planning-and-review/What-is-asset-management> (external link, opens in a new window) web page on the Department of Treasury and Finance's website.

Liz Stackhouse, Assistant Director, Infrastructure Planning and Delivery  
Telephone: (03) 9096 1312  
Email: [Liz.Stackhouse@dhhs.vic.gov.au](mailto:Liz.Stackhouse@dhhs.vic.gov.au)

## 4.20 Victorian Carers Recognition Act

#### Who does this policy apply to?

The Act applies to organisations including state government departments, local councils and public service agencies and their sub-contractors, including Victorian approved National Disability Insurance Scheme (NDIS) providers, that provide programs or services that affect people in care relationships.

#### Policy purpose

The purpose of the Act is to recognise, promote and value the role of people in care relationships. It formally acknowledges the important contribution that people in care relationships make to our community and the unique knowledge that carers hold of the person in their care.

#### Legislation and /or regulation

A carer is anyone who provides care to another person in a care relationship including carers under the age of 18 years.

A care relationship exists where the person being cared for is an older person, or a person with a disability, a mental illness or an ongoing medical condition. The Act also includes situations where someone is being cared for under the [Children, Youth and Families Act 2005](http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/cyafa2005252/) <http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol\_act/cyafa2005252/> (external link, opens in a new window), in a foster, kinship or permanent care arrangement.

The Act does not apply to programs or services in which people are employed to provide care services, people provide care as part of professional training or people are volunteers for an organisation.

#### Organisation requirements

Organisations providing programs or services that affect people in care relationships are required to take all practical measures to comply with the care relationship principles in the Act and to reflect them when developing and implementing support for people in care relationships.

Organisations must prepare a report on their compliance with the Act, to be included in their annual report. This may be as simple as a paragraph describing the activity undertaken over the year to comply with the Act.

The [Carers Recognition Act 2012](https://providers.dhhs.vic.gov.au/carers-recognition-act-2012)<https://providers.dhhs.vic.gov.au/carers-recognition-act-2012> (external link, opens in a new window) (the Act) came into effect on 1 July 2012. The purpose of the Act is to recognise, promote and value the role of people in care relationships. It formally acknowledges the important contribution that people in care relationships make to our community and the unique knowledge that carers hold of the person in their care.

For the purposes of the Act, a care relationship exists where the person being cared for is an older person, or a person with a disability, a mental illness or an ongoing medical condition. The Act also includes situations where someone is being cared for under the *Children, Youth and Families Act 2005*, in a foster, kinship or permanent care arrangement.

Organisations that must comply with the Act include state government departments, local councils and public service agencies and their sub-contractors, including Victorian approved NDIS providers, that provide programs or services that affect people in care relationships. These organisations are required to take all practical measures to comply with the care relationship principles in the Act and to reflect them when developing and implementing support for people in care relationships.

Examples of organisations funded by the department that must comply with the Act include:

* Registered Disability Services Organisations
* Home based care providers including foster care, therapeutic foster care, kinship care and permanent care
* Support for Carers Program providers
* Home and Community Care Program for Younger People (HACC PYP) providers
* Public clinical mental health services, community managed mental health services and alcohol and drug service providers
  + Palliative Care service providers
* During transition to the NDIS, all Victorian approved NDIS providers must comply with the Act.

The Act also specifies that organisations must prepare a report on their compliance with the Act, to be included in their annual report. This may be as simple as a paragraph describing the activity undertaken over the year to comply with the Act.

Further information about the Act can be found at [Providers website](file:///\\n068\group\BDB\SA%20Mgmt%20Group\SAIK\SAIK%202018%20Update\Providers%20website) <http://providers.dhhs.vic.gov.au/carers-recognition-act-2012> (external link, opens in a new window). The information includes the fact sheet *Responsibilities and obligations of governments and organisations* which provides guidance for organisations bound by the Act.

## 4.21 Hoarding and squalor resources

#### Who does this policy apply to?

The department developed these practical resources to assist and guide multiple service providers, from multiple sectors, supported by all government departments, to appropriately respond to and manage situations involving people with hoarding behaviour or a squalid living environment, and associated circumstances.

#### Policy purpose

Life situations involving hoarding behaviour and squalid living environments are complex and generally need to involve a broad range of service providers.

The aim of a service response, particularly one that relates to complex life situations, is to enable and empower the person to act on their own behalf, to exercise their rights and be confident of the services and resources available to assist them.

This practical resource does not attempt to define any aspect of diagnosis or clinical intervention, as that skill and responsibility lies in the professional areas of psychology, psychiatry, psychogeriatrics and geriatrics, as well as the broader ambit of mental health.

#### Legislation and /or regulation

Not applicable

#### Organisation requirements

Government funded organisations and businesses can refer to this best practice resource to:

* develop capacity to work together when responding to such situations involving hoarding behaviour or squalid living conditions
* better understand practical service response requirements to these complex life situations
  + to actively respond and no longer ignore such cases.

People of all ages, including children, may display hoarding behaviour or live in squalor.

These two publications (June 2013), a Hoarding and squalor practical resource for service providers and a Responding to hoarding and squalor – Key messages statement for service providers, are applicable to multiple sectors, programs and services.

These hoarding and squalor resources are available at the [Health website](https://www2.health.vic.gov.au/ageing-and-aged-care/wellbeing-and-participation/hoarding-and-squalor) <https://www2.health.vic.gov.au/ageing-and-aged-care/wellbeing-and-participation/hoarding-and-squalor> (external link, opens in a new window).

#### For further information

The resources developed as a project for the former Ageing and Aged Care Branch with contributions from a wide range of stakeholders. The department does not itself have special expertise in these areas and is not able to provide advice beyond the material included in the resources above.

## 4.22 Child safe standards

The Standards apply to organisations as a whole, not only the business units which deliver services to children.

Organisations that provide services for children that are government funded and/or regulated came into scope of the Standards on 1 January 2016. These organisations include schools, out-of-home care providers, early childhood providers and health services.

Other organisations that provide services for children came into scope on 1 January 2017. These organisations include religious, sporting and volunteer organisations.

#### Policy purpose

The Child Safe Standards are designed to help protect children from all forms of abuse by setting compulsory minimum standards that apply to organisations that provide services for children.

#### Legislation and /or regulation

The [Child Wellbeing and Safety Amendment (Child Safe Standards) Act 2015](http://www.austlii.edu.au/au/legis/vic/num_act/cwasassa201563o2015493/) <http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num\_act/cwasassa201563o2015493/> (external link, opens in a new window) underpins the Standards and came into effect on 1 January 2016.

#### Organisation requirements

The Child Safe Standards are compulsory for all organisations in scope, but not prescriptive to allow organisations flexibility in how they implement the Standards.

Organisations should review their existing policies and practice and identify where they need to take further action to comply with the Standards. A self-assessment tool is available at: <http://providers.dhhs.vic.gov.au/self-audit-tool-child-safe-standards-word> (external link, opens in a new window).

#### Child Safe Standards

To help protect children from abuse, the Victorian Government has introduced compulsory minimum Child Safe Standards (the Standards) that apply to organisations that provide services for children.

**Who do the Standards apply to?**

From 1 January 2016, the Standards apply to organisations that provide services for children that are government funded and/or regulated. These organisations include schools, out-of-home care providers, early childhood providers and health services.

**What are the Standards?**

The Child Safe Standards are as follows:

To create and maintain a child safe organisation, an entity to which the Standards apply must have:

**Standard 1**: Strategies to embed an organisational culture of child safety, including through effective leadership arrangements

**Standard 2**: A child safe policy or statement of commitment to child safety

**Standard 3**: A code of conduct that establishes clear expectations for appropriate behaviour with children

**Standard 4**: Screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel

**Standard 5**: Processes for responding to and reporting suspected child abuse

**Standard 6**: Strategies to identify and reduce or remove risks of child abuse

**Standard 7**: Strategies to promote the participation and empowerment of children.

In complying with the Child Safe Standards, an entity to which the Standards apply must include the following principles as part of each Standard:

* promoting the cultural safety of Aboriginal and Torres Strait Islander children
* promoting the cultural safety of children from culturally and/or linguistically diverse backgrounds
* promoting the safety of children with a disability.

**What are organisations required to do?**

The Standards are compulsory for all organisations in scope, but not prescriptive. This allows the diverse range of organisations in scope some flexibility in how they meet requirements of the Standards.

An Overview for the Victorian [Child Safe Standards](http://providers.dhhs.vic.gov.au/overview-victorian-child-safe-standards-word) <http://providers.dhhs.vic.gov.au/overview-victorian-child-safe-standards-word> (external link, opens in a new window) provides a non-exhaustive list of example measures that organisations could put in place to meet each of the Standards.

**Further information**

Organisations funded and/or regulated by the department can email [childsafeorgs@dhhs.vic.gov.au](mailto:childsafeorgs@dhhs.vic.gov.au) or telephone (03) 9096 6160.

Other organisations providing services to children can contact the Commission for Children and Young People by email [childsafestandards@ccyp.vic.gov.au](mailto:childsafestandards@ccyp.vic.gov.au) or telephone (03) 8601 5281.

Refer to the [Department of Health and Human Services website](http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/child-safe-standards) <https://dhhs.vic.gov.au/publications/child-safe-standards> (external link, opens in a new window) for further information about the Standards.

## 4.23 Reportable conduct scheme

The Victorian Government is continuing its commitment to make Victoria safer for all children by introducing a reportable conduct scheme from 1 July 2017.

The department as well as certain organisations funded by the department are included in the reportable conduct scheme.

The reportable conduct scheme requires organisations to respond to allegations of child abuse, thoroughly investigate the allegations and notify the Commission for Children and Young People of the investigation outcome. Where reportable conduct is substantiated, a person’s Working with Children Check can be reassessed.

The Commission for Children and Young People oversees the reportable conduct scheme and is working with organisations to assist them to understand their obligations.

Under the reportable conduct scheme, organisations with a high level of responsibility for children are required to notify the [Commission for Children and Young People (CCYP)](https://ccyp.vic.gov.au/) <https://ccyp.vic.gov.au/> (external link, opens in a new window) of allegations that staff has engaged in 'reportable conduct' or 'misconduct that may involve reportable conduct'.

**What is reportable conduct?**

An allegation of reportable conduct means any information that leads a person to form a ‘reasonable belief’ that an 'employee' has committed reportable conduct or 'misconduct that may involve reportable conduct'. This includes information about something that is alleged to have occurred outside the course of the person’s employment or engagement by an organisation.

There is an allegation of 'reportable conduct' where a person has a ‘reasonable belief’ that there has been:

* a sexual offence (even prior to criminal proceedings commencing), sexual misconduct or physical violence committed against, with or in the presence of a child
* behaviour causing significant emotional or psychological harm
* significant neglect of a child
* ‘misconduct’ involving any of the above.

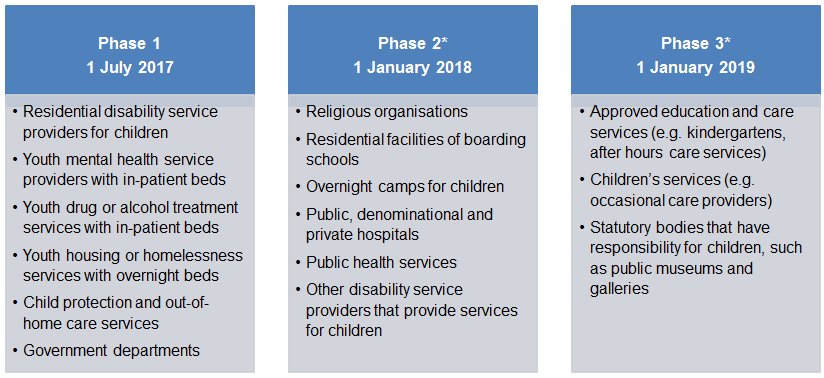
Reportable conduct extends to conduct occurring outside service delivery or the course of employment. This enables allegations of reportable conduct to be reported and responded to regardless of where the alleged conduct arises.

The scope of ‘reportable conduct’ is wide and is not limited to conduct that may be criminal.

Information about what behaviour is considered to be reportable conduct is available [CCYP website](https://ccyp.vic.gov.au/child-safety/resources/reportable-conduct-scheme-information-sheets/) <https://ccyp.vic.gov.au/> (external link, opens in a new window).

The reportable conduct scheme maintains the primacy of an investigation by Victoria Police of any allegations of criminal misconduct and requires allegations of criminal conduct to be reported to Victoria Police.

Victoria’s reportable conduct scheme is being introduced in three phases:



The reportable conduct scheme complements the Child Safe Standards. More information about the Child Safe Standards is available on the department’s [Providers website](http://providers.dhhs.vic.gov.au/child-safe-standards) <http://providers.dhhs.vic.gov.au/child-safe-standards> (external link, opens in a new window).

**Organisation Requirements**

The reportable conduct scheme is compulsory for all organisations in scope.

Organisations should review their existing policies and identify where they need to take further action to comply with the reportable conduct scheme.

**Further Information**

More information about the reportable conduct scheme can be found on the [Commission for Children and Young People’s website](https://ccyp.vic.gov.au/reportable-conduct-scheme/) <https://ccyp.vic.gov.au/reportable-conduct-scheme/> (external link, opens in a new window) or on the [Providers website](http://providers.dhhs.vic.gov.au/reportable-conduct-scheme) <http://providers.dhhs.vic.gov.au/reportable-conduct-scheme> (external link, opens in a new window).

## 4.24 Fraud and corruption control framework

#### Who does this policy apply to?

This policy applies to all department staff, executive officers, contractors, service providers, consultants and funded organisations.

#### Policy purpose

To provide guidance and support to funded organisations and to ensure they are pro-active in their reporting and management of reports of fraud and/or corruption.

#### Legislation and /or regulation

The Framework has been developed to ensure departmental compliance with the [Standing Directions of the Minister for Finance 2016](http://www.dtf.vic.gov.au/Publications/Government-Financial-Management-publications/Standing-Directions-of-the-Minister-for-Finance-2016/Standing-Directions-2016-publications) <http://www.dtf.vic.gov.au/Publications/Government-Financial-Management-publications/Standing-Directions-of-the-Minister-for-Finance-2016/Standing-Directions-2016-publications> (external link, opens in a new window) under the *Financial Management Act 1994* sections:

3.5.3 Significant or Systemic Fraud

3.5.3 (a) Corruption and Other Losses.

The Standing Directions are made under the *Financial Management Act 1994* and are to be read in conjunction with the Instructions that support the Standing Directions. Departmental compliance with legislative and/or regulatory requirements requires the establishment of processes and controls regarding oversight of fraud and corruption events involving public money.

#### Organisation requirements

Paragraph 4.4.2. of the Fraud and Corruption Control Framework requires funded organisations to report suspected fraud and corruption within their organisation to the department. Funded organisations are, as part of governance arrangements with the department, required to have in place their own reporting, investigation and fraud risk management strategies.

Part of the purpose of the Fraud and Corruption Control Framework is to provide clear guidance to funded organisations to ensure that they are pro-active in their reporting and management of reports of fraud and/or corruption.

#### Fraud and Corruption Control Framework

[Fraud and Corruption Control Framework - Prevention, Reporting and Investigation Plan](https://www.dhhs.vic.gov.au/publications/fraud-and-corruption-control-framework) <https://www.dhhs.vic.gov.au/publications/fraud-and-corruption-control-framework> (external link, opens in a new window)

## 4.25 Gifts, benefits and hospitality policy

#### Who does this policy apply to?

This policy applies to organisation funded by the Department of Health and Human Services.

#### Policy purpose

To ensure that organisations funded by the department are aware of the department’s expectations around funded organisations providing gifts, benefits and hospitality to department staff.

#### Legislation and /or regulation

Standing Directions of the Minister for Finance 2016.

#### Organisation requirements

Organisations are expected not to:

offer department staff gifts or benefits, either directly or indirectly, and offers of hospitality will be limited to token offers of basic courtesy (such as tea and coffee during a meeting); or

take any action in order to entice or obtain any unfair or improper advantage.

#### Background

According to the Standing Directions of the Minister for Finance 2016, Victorian government departments are required to develop and implement a gifts, benefits and hospitality policy applying prescribed minimum accountabilities. The minimum accountabilities can be summarised as:

Public officials offered gifts, benefits and hospitality:

* + do not, for themselves or others, seek or solicit gifts, benefits and hospitality
  + refuse all offers of gifts, benefits and hospitality that:
    - * are money, items used in a similar way to money, or items easily converted to money;
      * give rise to an actual, potential or perceived conflict of interest;
      * may adversely affect their standing as a public official or which may bring their public sector employer or of the public sector into disrepute; or
      * are non-token offers without a legitimate business benefit.

Declare all non-token offers (valued at $50 or more) of gifts, benefits and hospitality (whether accepted or declined) on their organisation’s register, and seek written approval from their manager or organisational delegate to accept any non-token offer.

Refuse bribes or inducements and report inducements and bribery attempts to the head of the department or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).

#### Implementation

To increase transparency, accountability and improve certainty regarding expectations of departmental staff and public officials the department has introduced a revised policy (in 2016) on gifts, benefits and hospitality.

The policy embodies the minimum accountabilities. It states that employees must refuse all offers of gifts, benefits or hospitality from people or organisations about whom they are likely to make decisions involving; tender processes, including managing a contract once the tender process has ceased, procurement, enforcement, licensing, or regulation, awarding of grants, sponsorship or funding allocations to agencies or organisations.

In many instances offers from organisations will be required to be declined but may nevertheless trigger an internal administrative process for the department. In many circumstances the details of the offer will be required to be recorded on a publically available register regardless of whether they have been accepted or declined.

The policy embeds a culture of integrity to mitigate risks associated with the offering and receipt of gifts, benefits and hospitality.

To support the implementation of this policy, funded organisations are expected not to:

* offer department staff gifts or benefits, either directly or indirectly, and offers of hospitality will be limited to token offers of basic courtesy (such as tea and coffee during a meeting); or
* take any action in order to entice or obtain any unfair or improper advantage.

**For further information**

Email: [corporate.integrity@dhhs.vic.gov.au](mailto:corporate.integrity@dhhs.vic.gov.au)

# Chapter 5. Department of Education and Training policies, procedures and initiatives

## 5.1 Fire risk management

## Please contact your Performance and Planning Advisor for information about Department of Education and Training policies, procedures and initiatives in regards to this matter.

## 5.2 Asbestos risk management guidelines

Department of Education and Training funded organisations that manage any type of workplace are required to comply with the Occupational Health and Safety Act 2004 (the Act).

The employer and any person who has the management or control of a workplace (onsite managers), are responsible for the occupational health and safety requirements relating to that workplace. Sections 21 and 23 of the Act require employers and onsite managers to ensure that the workplace is safe for clients, visitors, volunteers, contractors and subcontractors who may enter or work at the site.

Part 4.3 of the Occupational Health and Safety Regulations 2007 (the OHS Regulations) requires employers and onsite managers to make reasonable efforts to identify any asbestos in the workplace. If asbestos is present, or is suspected to be present, both the employer and onsite manager must maintain an asbestos register. If practicable the asbestos must be removed, or alternatively enclosed and sealed, to reduce the risk associated with its presence.

Prior to the commencement of any demolition or refurbishment works, regulations 4.3.35 and 4.3.36 of the OHS Regulations require an employer and any other onsite manager to review and revise the asbestos register. The OHS Regulations also require reasonable efforts be made by the employer and onsite manager to remove asbestos before demolition (regulation 4.3.49) or during refurbishment works (regulation 4.3.40).

It is the responsibility of the employer and the onsite manager to fully understand their legal obligations as per the requirements of the Act and Regulations.

#### Resources

[Worksafe](http://www.worksafe.vic.gov.au/laws-and-regulations) <http://www.worksafe.vic.gov.au/laws-and-regulations> (external link, opens in a new window)

[Asbestos in Victoria](http://www.asbestos.vic.gov.au/) <http://www.asbestos.vic.gov.au/> (external link, opens in a new window)

#### For further information

Andrew Major, Manager, Contracts and Procurement Unit, Standards and Planning Branch, Infrastructure and Sustainability, Infrastructure and Finance Services Group  
Telephone: 03 9947 1836  
Email: [major.andrew.a@edumail.vic.gov.au](mailto:major.andrew.a@edumail.vic.gov.au)

## 5.3 Incident reporting

#### Approved child care and licensed children’s services

Licensed Children's Services are required to comply with incident reporting requirements as set out in the relevant Acts and Regulations.

From 1 January 2012, the National Quality Framework applies to family day care, long day care, outside school hours care services and preschools (kindergartens) across Australia. These services must meet the requirements of the:

* Education and Care Services National Law Act 2010 (National Law)
* Education and Care Services National Regulations 2011 (National Regulations)

These services are referred to as education and care services.

All limited hours and short term licensed services, a small number of other services that currently hold a standard licence including budget-based services not funded for the Child Care Benefit, occasional care, early childhood intervention, and mobile services, and a small number of school holiday care programs, will continue to be required to operate under the:

* Victorian Children’s Services Act 1996 (Victorian Act)
* Victorian Children’s Services Regulations 2009 (Victorian Regulations)

#### Other Early Childhood Services and Programs

Other Early Childhood Services and Programs do not operate under the National Quality Framework or the Children’s Services Act 1996. They include the Aboriginal Early Years Services, Early Childhood Intervention Services, access and participation to funded kindergarten program and services including Access to Early Learning, Maternal and Child Health Services, Parenting Services, Best Start and the Children’s Facilities Capital Program.

#### Reporting Incidents

Funded organisations are required to call the Early Childhood Performance and Planning Adviser (PAPA) in the [Regional Offices](http://www.education.vic.gov.au/about/contact/Pages/regions.aspx) <http://www.education.vic.gov.au/about/contact/Pages/regions.aspx> (external link, opens in a new window), if:

* the occurrence of an incident is not within the scope of the department’s Quality Assessment and Regulatory Division’s (QARD) framework; or
* the incident occurred in a service or program that is outside QARD’s scope; or
* the incident occurred in the provision of Other Early Childhood Services and Programs.

Funded organisations and the relevant PAPA will discuss the appropriate reporting process and response, on a case by case basis. For more information, refer to the former Department of Human Service web page on [Critical client incident reporting](https://fac.dhhs.vic.gov.au/incident-reporting) <https://fac.dhhs.vic.gov.au/incident-reporting> (external link, opens in a new window).

#### Offences relating to the sexual abuse of children

The following criminal offences were introduced to improve responses within organisations and the community to child sexual abuse.

Department staff and all staff associated with organisations funded by the department should be aware of, and comply with relevant legislation, standards, screening and program requirements, and policies on preventing, reporting and responding to child sexual abuse.

#### Offence for failure to disclose child sexual abuse

The offence for failure to disclose child sexual abuse to the police came into effect on 27 October 2014.

#### Offence for failure to protect children from the risk of sexual abuse

The offence for 'failure to protect' a child from a risk of sexual abuse commenced on 1 July 2015.

Further information about these offences and the reporting process are available on the former Department of Human Services’ [New criminal offences to improve responses to child sexual abuse](http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/new-criminal-offences-to-improve-responses-to-child-sexual-abuse) <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/new-criminal-offences-to-improve-responses-to-child-sexual-abuse> (external link, opens in a new window) web page.

Alternatively, you can email [childsafestandards@dhhs.vic.gov.au](mailto:childsafestandards@dhhs.vic.gov.au)

#### For further information

Florence Kaur, Senior Policy Officer, System Quality Unit, Strategy and Integration Division, Early Childhood and School Education Group  
Telephone: 03 9651 3242  
Email: [kaur.florence.g@edumail.vic.gov.au](mailto:kaur.florence.g@edumail.vic.gov.au)

**Offence for failure to disclose child sexual abuse**

The offence for failure to disclose child sexual abuse to the police came into effect on 27 October 2014.

Further information about the offence and how to report is available on the human services [New criminal offences to improve responses to child sexual abuse](http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/new-criminal-offences-to-improve-responses-to-child-sexual-abuse) <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/new-criminal-offences-to-improve-responses-to-child-sexual-abuse> (external link, opens in a new window) web page.

**New offence for failure to protect children from the risk of sexual abuse**

The new offence for 'failure to protect' a child from a risk of sexual abuse commenced on 1 July 2015.

A fact sheet about the offence is available to download from the human services: [New criminal offences to improve responses to child sexual abuse](http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/new-criminal-offences-to-improve-responses-to-child-sexual-abuse) <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/new-criminal-offences-to-improve-responses-to-child-sexual-abuse> (external link, opens in a new window) web page. Alternatively, you can email [childsafestandards@dhhs.vic.gov.au](mailto:childsafestandards@dhhs.vic.gov.au)http://wcm.dhs.vic.gov.au/__fudge/wysiwyg/images/blank.gif

The former Department of Human Services' policy in relation to allegations of physical and sexual assault applies to all Department of Education and Training funded organisations.

In responding to allegations of physical or sexual assault, refer to the former Department of Human Services' instructions and other relevant information on the [Incident Reporting webpage](https://fac.dhhs.vic.gov.au/incident-reporting) <https://fac.dhhs.vic.gov.au/incident-reporting> (external link, opens in a new window) web page.

Further resources:

[Protecting the safety and wellbeing of children and young people 2010](http://www.education.vic.gov.au/childhood/providers/regulation/Pages/protectionprotocol.aspx) <http://www.education.vic.gov.au/childhood/providers/regulation/Pages/protectionprotocol.aspx> (external link, opens in a new window). This resource outlines the responsibilities of funded organisations which provide Early Childhood services and program in responding to allegations of physical and sexual assault.

[Responding to Allegations of Student Sexual Assault Procedures for Victorian Government Schools](http://www.education.vic.gov.au/Documents/school/principals/spag/safety/respallegsexuala.pdf) (external link, opens in a new window)

[Responding to Student Sexual Assault](http://www.education.vic.gov.au/school/principals/spag/safety/Pages/sexualassault.aspx) <http://www.education.vic.gov.au/school/principals/spag/safety/Pages/sexualassault.aspx> (external link, opens in a new window)

[Child sexual abuse: Understanding and responding for Students, Teachers, Workers](http://www.secasa.com.au/pages/child-sexual-abuse-understanding-and-responding/) <http://www.secasa.com.au/pages/child-sexual-abuse-understanding-and-responding/> (external link, opens in a new window)

#### Child Safe Standards

The Child Safe Standards are compulsory minimum standards for all funded organisations, licensed and approved early childhood services and Victorian schools. The Child Safe Standards require organisations to take steps to create a culture of child safety and protect children from all forms of abuse and neglect.

The Child Safe Standards formally commenced on 1 January 2016 and there is an initial focus on capacity building and support for organisations.

Further information for early childhood services operating under the National Quality Framework or Children's Services Act 1996 is available on the Child Safe Standards regulatory page or by  
Phone: 1300 307 415.  
Email: [licensed.childrens.services@edumail.vic.gov.au](mailto:licensed.childrens.services@edumail.vic.gov.au)

Other organisations providing services for children can contact the Department of Health and Human Services for further information:  
Phone: (03) 9096 0000.  
Email: [childsafestandards@dhhs.vic.gov.au](mailto:childsafestandards@dhhs.vic.gov.au)

#### Resources

[Child Safe Standards](https://dhhs.vic.gov.au/publications/child-safe-standards) <https://dhhs.vic.gov.au/publications/child-safe-standards> (external link, opens in a new window)

The Child Safe Standards <http://www.education.vic.gov.au/about/programs/health/Pages/childsafe.aspx> (external link, opens in a new window)

#### For further information

Manager, Student Incident and Recovery Unit, Emergency Management Division, Regional Services Group  
Telephone: (03) 9637 2934  
Email: [siru@edumail.vic.gov.au](mailto:siru@edumail.vic.gov.au)

## 5.4 Compliment and complaint management

The department is committed to listening to and responding to compliments and complaints. This important feedback informs the development and delivery of policies, programs and services that support and enhance the educational opportunities provided to Victorians.

The department aims to ensure funded services are effective and responsive to the needs of children and families, and therefore it encourages transparent feedback processes.

#### Guiding principles

The department’s [Complaints Charter](http://www.education.vic.gov.au/about/contact/Pages/complaintslanding.aspx#charter) <http://www.education.vic.gov.au/about/contact/Pages/complaintslanding.aspx#charter> (external links, opens in a new window) sets out guiding principles that should be followed by funded organisations when responding to complaints. It includes a requirement to act respectfully, impartially, to maintain confidentiality and to keep the complainant informed of the progress of inquiries, among other things.

#### Complaints about approved child care and licenced children’s services

The Quality Assessment and Regulation Division (QARD) is responsible for ensuring that approved providers safeguard the safety, health and wellbeing of children in kindergarten, long day care, family day care and outside school hours care.

QARD also regulates other services which continue to operate under the Children’s Services Act 1996, mostly offering occasional care.

#### Resources

[Parent Complaints - Child Care or Children's Services](http://www.education.vic.gov.au/about/contact/Pages/complainec.aspx) <http://www.education.vic.gov.au/about/contact/Pages/complainec.aspx> (external link, opens in a new window)

[Complaints about the Quality Assessment and Regulation Division](http://www.education.vic.gov.au/childhood/providers/regulation/Pages/complaints.aspx)​ <http://www.education.vic.gov.au/childhood/providers/regulation/Pages/complaints.aspx> (external link, opens in a new window) (Department Regulation Staff)

[Concerns about your Child Care](http://www.education.vic.gov.au/childhood/parents/childcare/Pages/concerns.aspx) <http://www.education.vic.gov.au/childhood/parents/childcare/Pages/concerns.aspx> (external link, opens in a new window)

#### Contact details

Regions: [Regulation and Quality Assessment](http://www.education.vic.gov.au/childhood/providers/regulation/Pages/default.aspx) <http://www.education.vic.gov.au/childhood/providers/regulation/Pages/default.aspx> (Word 765 KB, opens in a new window)  
Telephone: 1300 307 415  
Email: [licensed.childrens.services@edumail.vic.gov.au](mailto:licensed.childrens.services@edumail.vic.gov.au)

#### Complaints about other Early Childhood Services and Programs

Other Early Childhood Services and Programs do not operate under the National Quality Framework or the Children’s Services Act 1996. They include the Aboriginal Early Years Services, Early Childhood Intervention Services, access and participation to funded kindergarten program and services including Access to Early Learning, Maternal and Child Health Services, Parenting Services, Best Start and the Children’s Facilities Capital Program.

For further information, see [Complaints about Other Early Childhood Services and Programs](http://www.education.vic.gov.au/about/contact/Pages/complainecother.aspx) <http://www.education.vic.gov.au/about/contact/Pages/complainecother.aspx> (external link, opens in a new window).

#### Contact details:

Regions: contact the Early Childhood Performance and Planning Advisers in the [Regional Offices](http://www.education.vic.gov.au/about/contact/Pages/regions.aspx) <http://www.education.vic.gov.au/about/contact/Pages/regions.aspx> (external link, opens in a new window)

Email: [community.stakeholders@edumail.vic.gov.au](mailto:community.stakeholders@edumail.vic.gov.au)

#### Sample compliment and complaint management policy

A generic sample compliment and complaint management policy document, is specifically designed for use by funded organisations. This is provided to assist organisations in establishing or reviewing their existing practical frameworks relating to compliments, complaints and other forms of feedback. Organisations can adapt the sample compliment and complaint management policy document to meet their specific needs. The sample and template documents include:

* [sample compliment and complaint management policy](http://www.dhs.vic.gov.au/__data/assets/word_doc/0008/968102/Compliment-and-complaint-management-policy-sample-policy-20-June-2016.doc) <http://www.dhs.vic.gov.au/\_\_data/assets/word\_doc/0008/968102/Compliment-and-complaint-management-policy-sample-policy-20-June-2016.doc> (Word 83 KB, opens in a new window)
* [compliment and complaint feedback reporting system template](http://www.dhs.vic.gov.au/__data/assets/word_doc/0009/968103/Compliment-and-complaint-management-policy-feedback-reporting-system-20-June-2016.doc) <http://www.dhs.vic.gov.au/\_\_data/assets/word\_doc/0009/968103/Compliment-and-complaint-management-policy-feedback-reporting-system-20-June-2016.doc> (Word 134 KB, opens in a new window)
* [compliment and complaint form template](http://www.dhs.vic.gov.au/__data/assets/word_doc/0011/968105/Compliment-and-complaint-management-policy-form-template-20-June-2016.doc) <http://www.dhs.vic.gov.au/\_\_data/assets/word\_doc/0011/968105/Compliment-and-complaint-management-policy-form-template-20-June-2016.doc> (Word 135 KB, opens in a new window)
* [listing of organisations for additional support](http://www.dhs.vic.gov.au/__data/assets/word_doc/0010/968104/Compliment-and-complaint-management-policy-orgs-for-support-listing-20-June-2016.doc) <http://www.dhs.vic.gov.au/\_\_data/assets/word\_doc/0010/968104/Compliment-and-complaint-management-policy-orgs-for-support-listing-20-June-2016.doc> (Word 75 KB, opens in a new window).

## 5.5 Safety screening for funded organisations

#### Overview of safety screening

Safety screening plays an important role in providing safer service delivery for children and families who receive services from organisations funded by the department.

#### Pre-employment safety screening checks

The pre-employment checks that a funded organisation must conduct on prospective employees will depend on the nature of the service provided by the organisation. The checks may include the following:

* proof of identity;
* employment history;
* qualification check;
* confirmation of a Working With Children Check (WWCC) or a current Victorian Institute of Teaching (VIT) registration;
* criminal history check; and
* referee checks.

All information required for pre-employment safety screening is collected with the applicant’s informed consent.

A [pre-employment safety screening checklist](http://www.dhs.vic.gov.au/__data/assets/word_doc/0008/908144/4.6-Safety-screening-App-2-Pre-employment-safety-screening-checklist-01092015.doc) <http://www.dhs.vic.gov.au/\_\_data/assets/word\_doc/0008/908144/4.6-Safety-screening-App-2-Pre-employment-safety-screening-checklist-01092015.doc> (Word 100 KB, opens in a new window) is available from the Department of Health and Human Services' Service agreement information kit 's web page on Safety screening for funded organisations.

#### Proof of Identity

As part of the pre-employment check, a funded organisation should seek 100 points of identification, confirming the prospective employee’s identity.

#### Working with Children Check

Any person doing ‘child-related work’, involving unsupervised direct contact with children, in Victoria, must hold a current Victorian WWCC. Funded organisations must ensure employees and volunteers hold a valid Victorian WWCC, where required.

All non-teaching school based employees in Victorian government schools are required by the department to have a WWCC even if their duties do not fit the definition of ‘child-related work’.

More information on the WWCC can be found at the [Working with Children Check website](http://www.workingwithchildren.vic.gov.au/) <http://www.workingwithchildren.vic.gov.au> (external link, opens in a new window).

#### Student placements

Children aged 18 years or under are not required to hold a WWCC. However, funded organisations wishing to provide a work experience placement for a student should conduct referee checks with teachers, parents or other adults who personally know the student.

The department provides extensive resources on [Work Experience](http://www.education.vic.gov.au/school/teachers/teachingresources/careers/work/pages/workexperience.aspx) Placements <http://www.education.vic.gov.au/school/teachers/teachingresources/careers/work/pages/workexperience.aspx> (external link, opens in a new window).

#### Victorian Institute of Teaching Registration

A person who is employed as an early childhood teacher in a Victorian education and care service, or children’s service, must be registered with the Victorian Institute of Teaching (VIT). VIT registration is renewed annually, and requires a current National Police History Check, which is valid for 5 years. A WWCC is not required where an employee is registered with VIT.

There are limited circumstances when VIT registration requirements may not apply. Contact the [Regulatory Authority](http://www.education.vic.gov.au/childhood/providers/regulation/Pages/default.aspx) <http://www.education.vic.gov.au/childhood/providers/regulation/Pages/default.aspx> (external link, opens in a new window) for further information.

More information regarding VIT registration is available on the [Victorian Institute of Teaching](http://www.vit.vic.edu.au/) <http://www.vit.vic.edu.au/> (external link, opens in a new window) website.

#### Criminal History

In addition to the WWCC, some funded organisations are required by law to perform criminal history checks on prospective employees. The department has produced fact sheets detailing the criminal history check requirements for the following providers:

* Licensed children’s services ([Criminal history check requirements for licensed children's services](http://www.education.vic.gov.au/Documents/childhood/providers/regulation/pracnotescrimhistory.pdf)) <http://www.education.vic.gov.au/Documents/childhood/providers/regulation/pracnotescrimhistory.pdf> (external link, opens in a new window)
* Centre-based services ([National Quality Framework Criminal history requirements: Centre-based services](http://www.education.vic.gov.au/Documents/childhood/providers/regulation/nqfcrimhistcentre0214.pdf)) (external link, opens in a new window)
* Family day care services ([National Quality Framework Criminal history requirements: family day care](http://www.education.vic.gov.au/Documents/childhood/providers/regulation/nqfcriminalhistoryfdc-23-11-2015.pdf)) (external link, opens in a new window)

Police record checks can be obtained directly from the [Victoria Police](http://www.police.vic.gov.au/content.asp?Document_ID=2) website <http://www.police.vic.gov.au/content.asp?Document\_ID=2> (external link, opens in a new window) website or through an authorised service or agency accredited by CrimTrac. CrimTrac is the national information sharing service for Australia's police, law enforcement and national security agencies. A list of agencies accredited by CrimTrac can be found on the [CrimTrac](https://www.crimtrac.gov.au/) <https://www.crimtrac.gov.au/> (external link, opens in a new window) website.

#### Qualification check

If qualifications are a mandatory requirement of the role, original qualifications must be copied, certified as being a true copy of the original and dated by the relevant delegate then returned to the applicant.

If there are any concerns about the authenticity of the qualification as presented, the issuing institution must be contacted directly to verify that the authenticity of the qualification.

#### Referee checks

Referee checks are an important part of the safety screening process. A minimum of two checks should be carried out to confirm the applicant's suitability, including contact with their most recent employer. Refer to the template [Safety screening referee check template](http://www.dhs.vic.gov.au/__data/assets/word_doc/0003/871410/4.6-Safety-screening-referee-check-template-SA-info-kit-30052014.doc) <http://www.dhs.vic.gov.au/\_\_data/assets/word\_doc/0003/871410/4.6-Safety-screening-referee-check-template-SA-info-kit-30052014.doc> (Word 55 KB, opens in a new window).

#### Recording and Storage of Documentation

Information obtained as part of the safety screening process must be treated with the highest level of confidentiality in accordance with the relevant legislation and standards. Refer to the table [Record Storage and Destruction](https://fac.dhhs.vic.gov.au/record-storage-and-destruction) <https://fac.dhhs.vic.gov.au/record-storage-and-destruction> (Word 85 KB, opens in a new window) for details.

Particular record keeping requirements apply to certain services. For more information, refer to the fact sheets below.

* Licensed children’s services ([Criminal history check requirements for licensed children's services](http://www.education.vic.gov.au/Documents/childhood/providers/regulation/pracnotescrimhistory.pdf)) <http://www.education.vic.gov.au/Documents/childhood/providers/regulation/pracnotescrimhistory.pdf> (external link, opens in a new window)
* Centre-based services ([National Quality Framework Criminal history requirements: Centre-based services](http://www.education.vic.gov.au/Documents/childhood/providers/regulation/nqfcrimhistcentre0214.pdf)) <http://www.education.vic.gov.au/Documents/childhood/providers/regulation/nqfcrimhistcentre0214.pdf> (external link, opens in a new window)
* Family day care services ([National Quality Framework Criminal history requirements: family day care](http://www.education.vic.gov.au/Documents/childhood/providers/regulation/nqfcriminalhistoryfdc-23-11-2015.pdf)) <http://www.education.vic.gov.au/Documents/childhood/providers/regulation/nqfcriminalhistoryfdc-23-11-2015.pdf> (external link, opens in a new window)

#### Statutory Declaration of Full Disclosure

Funded or registered organisations and authorised agencies should ask prospective employees to sign a statutory declaration, affirming that the prospective employee has fully disclosed any pending charges, convictions, disciplinary actions, findings of improper conduct, or any investigations to which they have been subject.

Alternatively a statement to this effect could be included in the contract of employment paperwork.

#### Ongoing disclosure

Future risks are not mitigated by one-off safety screening at recruitment. Funded organisations should incorporate a statement in their employment agreements requiring staff to inform their manager if the employee is:

* charged with a criminal offence that could reasonably affect their ability to meet the inherent requirements of their job; or
* subject to a formal disciplinary action by any current or former employer.

#### For further information

Megan Leuenberger, Principal Maternal Child Health Nurse Advisor, Wellbeing, Health and Engagement Division,  
Phone: (03) 9651 3040  
Email: [leuenberger.megan.e@edumail.vic.gov.au](mailto:leuenberger.megan.e@edumail.vic.gov.au)

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## 5.6 Occupational health and safety

An organisation entering into a Service agreement must be aware of and able to provide an appropriate documented system to demonstrate compliance with its occupational health and safety obligations under all relevant State and Federal law, including the Victorian Occupational Health and Safety Act 2004 (the Act) and Occupational Health and Safety Regulations 2007 (OHS Regulations). Particularly relevant sections of the Act are 21(1), 21(2), 21(3), 22, 23, 26 and 32.

The principles of the Act are designed to provide a safe work place. These principles are as follows.

Employees, other persons at work and members of the public are given the highest level of protection against risks to their health and safety that is reasonably practicable in the circumstances.

Persons who control or manage matters that give rise or may give rise to risks to health or safety are responsible for eliminating or reducing those risks so far as is reasonably practicable.

Employers and self-employed persons should be proactive, and take all reasonably practicable measures to ensure health and safety at workplaces and in the conduct of undertakings.

Employers and employees should exchange information and ideas about risks to health and safety and measures that can be taken to eliminate or reduce those risks.

Employees are entitled, and should be encouraged, to be represented in relation to health and safety issues.

Schedule 1 of the Service agreement sets out the requirements of an organisation to comply with all State and Federal law relevant to its operation.

#### Health and Safety Management System

The department requires that all organisations have systems in place to manage their obligations and duty of care under the Act. Any organisational health and safety management system must be auditable to ensure compliance with the Act.

The following items list specific references regarding duties under the Act:

#### Employer obligations (Sections 21, 22 and 23 Duties of Employers to Employees)

**Section 21** covers the duties of employers toward their employees.

**Section 21 (1)** requires an employer to provide and maintain, so far as is reasonably practicable for employees, a working environment that is safe and without risks to health.

**Section 21 (2)** sets out specific duties as examples of what is necessary to comply with the general duty.

**Section 21 (3)** duties of employers are to employees including independent contractors and their employees. These duties are limited to matters over which the employer has, or should have, control, or would have had control but for any agreement between the employer and the independent contractor to the contrary.

**Section 22** describes duties of employers to monitor health and conditions.

**Section 23** an employer must ensure, so far as is reasonably practicable, that persons other than employees of the employer are not exposed to risks to their health or safety arising from the conduct of the undertaking of the employer.

#### Employee obligations (Section 25)

Employees have obligations under the Act which requires that employees must:

take reasonable care for his or her own health and safety;

take reasonable care for the health and safety of anyone else who may be affected by his or her acts or omissions at the workplace;

cooperate with his or her employer with respect to any action taken by the employer to comply with any requirements imposed by or under this Act; and

not wilfully or recklessly interfere with or misuse safety equipment that is provided.

#### Duties of those who manage or control workplaces (Section 26)

The Act places direct duties on a person who, to any extent, has the management or control of a workplace, whether or not they are the owner. The workplace manager must ensure the workplace is safe and the means of entering and leaving it are safe and without risks to health.

The duties of a person under this section apply only in relation to matters over which the person has management or control.

#### Duty not to recklessly endanger persons at work (Section 32)

All persons have a duty not to recklessly engage in conduct that places, or may place, another person in the workplace in danger of serious injury.

#### Consultation (Part 4: Sections 35 (1 and 2) and 36 (1, 2 and 3))

The Act clearly defines the duty of employers to consult with health and safety representatives and/or staff on a range of OHS issues, including making decisions about risk controls, adequacy of facilities and any changes to the workplace, plant or conduct of work that may directly impact on the safety or health of employees.

#### Issue resolution (Section 73)

The Act requires the employer, or the employer’s representative, to work with employees resolve the health and safety issues arising in the workplace. Issue resolution should be in accordance with an agreed procedure, or if there is no such procedure, use of the relevant procedure prescribed in the OHS Regulations. The resolution procedure must include employees affected by the issue, and/or a designated work group in relation to which the issue has arisen.

For issue resolution, the employer’s representative must:

have an appropriate level of seniority;

be sufficiently competent; and

not be a health and safety representative.

Part 2.2 of the OHS Regulations provides detail on the issues resolution process.

A health and safety issue may include any:

item in the general duties section of the Act;

hazard or potential hazard; or

procedural issue relating to health and safety which does not necessarily imply the existence of a health and safety dispute. Issues can be resolved through the prescribed procedure set out in the OHS Regulations Part 2.2, or through an agreed procedure, which provides a step-by-step process to enable the speedy and effective resolution of health and safety issues.

#### Manual handling

Part 3.1 (Manual Handling) of the OHS Regulations emphasise the identification, assessment, control and review of manual handling risks. All organisations should address their manual handling issues by (as a minimum) ensuring compliance to this part of the regulations.

Manual handling covers a wide range of activities including lifting, pushing, pulling, holding, throwing and carrying. Hazardous manual handling involves tasks that have:

repetitive or sustained application of force, awkward postures or movements;

tasks that are difficult due to the degree of force applied (high force);

exposure to sustained vibration;

manual handling of live people or animals; or

manual handling of unstable loads that are difficult to grasp or hold.

Potentially hazardous manual handling takes may include packing, typing, assembling, cleaning, sorting, using hand-tools, operating machinery and equipment, or manual handling of persons.

#### Other OHS Regulation requirements

An organisation entering into a Service agreement must identify and address other relevant requirements of the OHS Regulations pertaining to their operations and undertakings such as Noise (Part 3.2), Prevention of Falls (Part 3.3), Plant (Part 3.5), Hazardous Substances and Materials (Part 4.1) and Asbestos (Part 4.3).

#### Effective occupational health and safety management

An effective health and safety program will include managing both physical and psychological key sector risks such as manual handling, occupational violence and stress. As a minimum, programs should contain:

* specifically designated personnel to be responsible for occupational health and safety functions and activities;
* documented occupational health and safety policies and procedures, including safe work procedures and emergency procedures;
* appropriate training and information in health and safety for all staff;
* an established incident reporting and investigation process;
* hazard identification and risk control mechanisms, with reference to the hierarchy of control to eliminate or minimise risks as close to the source as reasonably practicable;
* appropriate consultative and issue resolution procedures; and
* monitoring and review processes.

When developing an occupational health and safety program, refer to relevant Australian Standards AS/NZS4801 and AS/NZS4804

#### Duties relating to incidents - notification of incidents to WorkSafe Victoria (sections 37, 38 and 39)

Part 5 of the Act refers to the notification of incidents:

* Section 37 defines the incidents to which part 5 applies.
* Section 38 explains the requirements of the 'Duty to notify'.
* Section 39 describes the requirement to preserve the site.

Note: Relevant incident(s) must be reported to WorkSafe Victoria by calling 132 360, immediately after becoming aware of the incident. Written notification must be provided to WorkSafe Victoria within 48 hours.

#### A guide to the Act and advice - WorkSafe Victoria

A Guide to the Occupational Health and Safety Act 2004 can be obtained from the local WorkSafe Victoria office. WorkSafe Victoria also provides advice on all workplace health and safety issues. The contact telephone number is (03) 9641 1444. Toll free 1800 136 089.

WorkSafe Victoria website: <http://www.worksafe.vic.gov.au/> <http://www.worksafe.vic.gov.au/>

Copies of Victorian Acts and Regulations can be purchased from Information Victoria on 1300 366 356, or accessed online for free by going to <http://www.legislation.vic.gov.au/> <http://www.legislation.vic.gov.au/> and selecting ‘Victorian Law Today’.

#### For further information

Tim Wall, Manager, Employee Safety and Wellbeing Branch, People Division, People and Executive Services Group  
Telephone: (03) 9637 2460  
Email: [wall.timothy.c@edumail.vic.gov.au](mailto:wall.timothy.c@edumail.vic.gov.au)

## 5.7 Workers Compensation

Under the [Workplace Injury Rehabilitation and Compensation Act 2013](http://www.austlii.edu.au/au/legis/vic/num_act/wiraca201367o2013530/) <http://www.austlii.edu.au/au/legis/vic/num\_act/wiraca201367o2013530/> (external link, opens in a new window) (the Act), organisations with a rateable remuneration level in excess of $7,500 are required to have a WorkCover policy with a WorkSafe authorised agent (insurer). A list of agents is available on the [WorkSafe website](http://www.worksafe.vic.gov.au/) <http://www.worksafe.vic.gov.au/> (external link, opens in a new window) website.

The organisation's obligations under the Act extend to the:

* payment of WorkCover premium by employers;
* registration of work sites;
* management of claims;
* payment of compensation; and
  + assistance with return to work for employees injured in the course of their work.

WorkSafe can impose penalties when employers fail to meet their responsibilities under the Act.

Guidelines for implementing WorkCover obligations are available on the [WorkSafe website](http://www.worksafe.vic.gov.au/) <http://www.worksafe.vic.gov.au/> (external link, opens in a new window) website and from authorised WorkCover agents. The WorkSafe Advisory Service can be contacted on (03) 9641 1444.

Note: A funded organisation's employees are not covered by the department’s WorkCover policy.

#### Premium discount

WorkSafe offers:

* a five per cent discount to eligible organisations where the full WorkCover premium is paid by 5 August as a lump sum instead of by instalments
* a three per cent discount to eligible organisations where the full WorkCover premium is paid by 1 October as a lump sum instead of by instalments.

Further information on the premium discount is available from the [WorkSafe website](http://www.worksafe.vic.gov.au/) <http://www.worksafe.vic.gov.au/> (external link, opens in a new window) website.

#### For further information

Florence Kaur, Senior Policy Officer, System Quality Unit, Strategy and Integration Division, Early Childhood and School Education Group  
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## 5.8 Victorian Charter of Human Rights and Responsibilities

#### What is the Charter?

The Charter of Human Rights and Responsibilities Act 2006 (Charter) is a Victorian Act of Parliament that protects and promotes 20 civil and political rights including but not limited to the right to vote, the right to privacy and the right to be free from discrimination. The Charter is based on the United Nations treaty, the International Covenant on Civil and Political Rights to which Australia is a signatory. The Charter is available on the [Victorian Legislation and Parliamentary Documents website](http://www.legislation.vic.gov.au/) <http://www.legislation.vic.gov.au/> (external link, opens in a new window).

The Charter seeks to protect and promote basic human rights by ensuring that public powers and functions are exercised in a principled way and that public power is not misused. It complements a number of other pieces of legislation that are aimed at regulating the relationship between individuals and the State.

#### Does the Department of Education and Training and funded organisations have obligations under the Charter?

One important way the Charter protects rights is by placing obligations on public authorities. The department is a public authority, as are some of the organisations funded by the department. Outlined below are criteria to determine whether your organisation is a public authority, and the obligations of public authorities.

#### What is a Public Authority?

The Charter identifies three categories of organisations or individuals defined as public authorities which have obligations under the Charter:

1. Bodies or individuals listed in the Charter including among others:
   * + public servants;
     + local councils;
     + Victoria Police; and
     + organisations listed in regulations made under the Charter.
2. Entities established under legislation that perform functions of a public nature such as:
   * + public hospitals;
     + cemetery trusts;
     + Commission for Children and Young People; and
     + Victorian Assisted Reproductive Treatment Authority.
3. Entities that exercise functions of a public nature on behalf of the State or another public authority, whether under contract or otherwise.

A body or individual which is a public authority must comply with the Charter in carrying out functions of a public nature. Organisations or individuals who perform a number of functions may only have obligations under the Charter with respect to those functions which are of a public nature. However, as a matter of best practice, they may choose to comply with the Charter in respect of all activities that affect human rights.

#### How do you know if you are performing functions of a public nature?

It may not always be clear whether organisations or individuals that perform functions of a public nature constitute a public authority. The following questions may assist in clarifying whether their functions are of a public nature:

Does legislation give the organisation or individual that function? For example, children’s services operating under the Children’s Services Act 1996.

Is the function one that is usually connected to or generally identified with functions of government? For example, the provision of education services.

Is the organisation or individual funded by a public authority to perform that function? Examples include parenting services, supported playgroups and kindergartens.

Is the function one of a regulatory nature, such as regulating a profession?

Is the organisation or individual performing the functions on behalf of the State, a department, or another public authority?

In many cases, it is clear when a function is being performed for the State or another public authority. Often it will depend on the circumstances of each case. However, the Charter specifies that:

* the fact that an organisation is publicly funded to perform a function does not necessarily mean that the organisation is performing the function on behalf of the State; and
* an organisation does not have to be an agent of the State to be acting on behalf of the State.

These factors are not exhaustive or conclusive. Some of the factors may be present when an organisation or individual is performing a function that is not of a public nature.

If an organisation or individual is unclear as to whether they are a public authority for the purposes of the Charter, they may choose to seek further legal advice or act compatibly with the Charter in the exercise of their functions as a matter of best practice.

#### What obligations do you or your organisation have as a public authority?

If an organisation or individual which is a public authority acts or makes any decision that affects another individual's rights as set out in the Charter, it must consider the relevant human rights in the Charter and act compatibly with those rights. This means that public authorities must consider the rights protected by the Charter when they make decisions, set policies and provide services.

There are steps that organisations and individuals can follow to ensure that they comply with these obligations including:

* thinking about where human rights are relevant to their activities and decisions that they make;
* where rights are engaged (relevant to the decision or action), consider whether or not the decision or action is limiting a human right in the Charter; and
  + being able to demonstrate that any limitation on a human right is reasonable and to consider whether the limitation is lawful, necessary, and proportionate in the circumstances.

It is important to understand that the Charter permits the reasonable limitation of human rights in particular circumstances.

Entities will make decisions and apply procedures that impact on an individual's human rights. This action is still compatible with the Charter as long as it can be demonstrated that the limitation on the right is reasonable.

A ‘reasonable’ limitation is determined based on the standards in a free and democratic society including human dignity, equality and freedom and taking into account:

* + the nature of the right;
  + the importance and purpose of the limitation;
  + the nature and extent of the limitation;
  + the relationship between the limitation and its purpose; and
  + whether there is any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

#### Exceptions from the obligation to comply with the Charter

A public authority is not obliged to comply with the Charter where:

* a Victorian law or a Commonwealth law means that the public authority cannot comply;
* the act or decision is of a private nature; and
* compliance with the Charter would prevent a religious body (including the public authority itself if it is a religious body) from conforming with the religious doctrines, beliefs or principles in accordance with which the religious body operates.

#### Breaches of human rights

An individual cannot take legal action if his or her sole reason is based on a breach of an obligation under the Charter. However, the Charter allows a person to raise a human rights argument in a court or tribunal in a case involving a claim that a decision or act of a public authority is unlawful on non-Charter grounds. The Ombudsman also has the power to investigate whether any administrative action is incompatible with a human right set out in the Charter.

The Charter does not provide for compensation for a breach of Charter rights.

#### List of human rights protected by the Charter

The Charter protects the following human rights:

* recognition as a person and equality before the law, and to protection against discrimination;
* right to life;
* protection from torture and cruel, inhuman and degrading treatment, and not to be subject to medical or scientific experimentation or treatment without consent;
* freedom from slavery or forced work;
* freedom of movement;
* right to not have one’s privacy, family, home or correspondence arbitrarily or unlawfully interfered with, and one’s reputation unlawfully attacked;
* freedom of thought, conscience, religion and belief;
* freedom of expression;
* peaceful assembly and freedom of association;
* protection of families and children by society and the State;
* right to take part in public life;
* practice and enjoy culture, religion and language;
* to not be deprived of property other than in accordance with law;
* liberty and security of person;
* humane treatment when deprived of liberty;
* detained child to be segregated from detained adults;
* fair hearing;
* presumption of innocence when charged with a criminal offence;
* not to be tried or punished more than once for an offence already been finally convicted or acquitted in accordance with the law; and
* with respect to the operation of certain retrospective criminal laws.

#### For further information

[Department of Justice and Regulation website](http://www.justice.vic.gov.au/) <http://www.justice.vic.gov.au/> (external link, opens in a new window)

[Funded agency channel](https://fac.dhhs.vic.gov.au) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window)

[Victorian Equal Opportunity and Human Rights Commission website](http://www.humanrightscommission.vic.gov.au/) <http://www.humanrightscommission.vic.gov.au/> (external link, opens in a new window)  
Address: Level 3, 204 Lygon Street, Carlton Vic 3053  
Telephone: 1300 891 848  
Fax: 1300 891 858 (except Legal Unit matters)  
Email: [information@veohrc.vic.gov.au](mailto:information@veohrc.vic.gov.au)

## 5.9 Funded Organisation Performance Monitoring Framework

#### Introduction

The Funded Organisation Performance Monitoring Framework (the Framework) updates the Monitoring Framework for health, housing and community service sectors (2005) by providing a set of new tools and processes for monitoring organisations funded through a Service agreement.

The Framework is a critical part of the department’s quality assurance approach to ensure that service users receive quality care and services meet appropriate standards and community expectations.

The Framework provides department staff with greater clarity and direction in monitoring activities. Staff across the department use a common set of tools to assess an organisation’s performance, ensuring all funded organisations across the state will be engaged in a consistent manner and assessed on defined key risk areas.

#### Scope of the Monitoring Framework

The Framework applies to organisations funded through a Service agreement with Departm4ent of Education and Training or Department of Health and Human Services.

Department Education and Training will be applying the new Framework in 2016 and will advise funded organisations of the commencement date for the use of the new monitoring tools and processes.

#### Components of the Framework

The Framework consists of three components involving the use of specific monitoring tools and processes to assess organisations’ performance against the Service agreement requirements. The components are:

**Service agreement Monitoring** undertaken on an ongoing basis through the collection of information and regular engagement between departmental staff and organisations.

Monitoring is focused on assessing key risk areas related to governance, financial management and service delivery. It involves evidence gathering and the tracking and documenting of an organisation’s outcomes and achievements. This monitoring is core to determining an organisation’s capacity to deliver service user safety and wellbeing and service quality and innovation.

**Risk assessment of identified performance issues** an assessment undertaken by departmental staff using risk assessment guidelines to assess the severity of any identified performance issues. This process supports the department and funded organisations to consistently determine the level of risk and develop effective actions for remediation.

**Responses to performance issues** Where a performance issue has been identified through Service agreement monitoring, departmental staff and organisations are to work through how the issue can be managed and remediated. Remedial actions are to be put in place to support organisations in addressing the requirements of the Service agreement.

Where there are more significant issues a Service Review would be undertaken. A Service Review provides an opportunity for the department and the funded organisation to jointly raise issues and determine an action plan. A third party may be engaged in these reviews.

In rare cases there may be serious allegations or evidence that a funded organisation has significantly breached the Service agreement. A Service Review will be undertaken by the department to determine if remedial actions can be put in place or if the Department needs to take other actions to ensure the safety and wellbeing of service users and provision of quality services.

#### Key tools

The following tools are used by departmental staff to support consistent monitoring of funded organisations:

**Service agreement Monitoring Checklist** is used throughout the year to ensure evidence gathering and discussions with funded organisations address the requirements of the Service agreement and have a focus on the key risk areas.

**Specialist Checklists** are used to review how a funded organisation is meeting defined policy/program requirements viewed as critical in ensuring service quality. The finalised Residential Services Monitoring Checklist will be available 1 January 2016. It was trialled in late 2014 in consultation with the children, youth and families sector.

**Desktop Review** provides an annual assessment of whole of funded organisation performance from information collected throughout the year. The Desktop Review Report is shared with funded organisations.

#### For further information

The [Funded Organisation Performance Monitoring Framework: Overview for the funding sector](https://fac.dhhs.vic.gov.au/policies-and-procedures) <https://fac.dhhs.vic.gov.au/policies-and-procedures> (external link, opens in a new window) provides further guidance on key components and process of the framework.

Email: [MonitoringFramework.Helpdesk@dhhs.vic.gov.au](mailto:MonitoringFramework.Helpdesk@dhhs.vic.gov.au)

## 5.10 Pandemic business continuity planning

#### Pandemic planning

Pandemic events pose a challenge for the continued provision of all services. Organisations are required to exercise their duty of care to protect the health and wellbeing of their employees, contractors, visitors and customers (including families and children). Accordingly, adequate business continuity planning, including pandemic planning, is required to enable the organisations to continue to deliver their key services to the community.

It is expected that organisation would work closely with local government and health authorities to manage the consequences of pandemic events.

#### Business continuity planning

Funded organisations are required to have Business continuity plans (BCPs) in place to continue to deliver these services. Conversely, you may need to plan for scaling down or standing down non-essential services.

Business continuity planning is the process by which business as usual operations and services are maintained to ensure critical business processes can continue to operate effectively, following a disruption to the organisation. Business continuity planning improves organisational resilience whilst minimising safety, financial, operational, reputational risks and/or other damaging consequences.

BCPs outline workaround strategies that an organisation would invoke in case of a disruption. Invoking the BCPs assists in the recovery efforts to ensure critical business processes can continue to operate.

Every organisation will benefit from having a BCP in place. BCPs that address such key disruption scenarios as loss of staff, building, IT and key supplier(s) provide an opportunity to respond to and recover from a vast array of disruptions events including pandemics, floods, fires etc.

During pandemic events, business continuity strategies about loss of staff and loss of suppliers need to consider the management of absenteeism of key employees and volunteers as well as significant interruptions to supplies. It is particularly important that small organisations with limited staff and resources prepare carefully to reduce the impact of a pandemic on the continuity of their service.

During a disruption, staff and volunteers are likely to be concerned about their well-being and the well-being of their families and customers. For example, during a pandemic, between 30 and 50 per cent of an organisation’s staff and volunteers may become ill, which could have a significant impact on an organisation. The remaining staff and volunteers, not affected by the pandemic, may not show up to work. The commitment of your organisation to business continuity, including pandemic business continuity planning, is likely to assure staff and volunteers that you are planning ahead and doing your best.

#### Resources

Australian National Audit Office: [Business Continuity Management: Building resilience in public sector entities](https://www.anao.gov.au/search/site/media%20Better%20Practice%20Guides%20Business%20Continuity%20Management%20Business%20continuity%20management) <https://www.anao.gov.au/search/site/media Better Practice Guides Business Continuity Management Business continuity management> (external link, opens in a new window). Appendix IV – Pandemics provides specific information on business continuity and pandemic plans

Department of Health and Human Services, Funded agency channel: [Business continuity management](https://fac.dhhs.vic.gov.au/policies-and-procedures) <https://fac.dhhs.vic.gov.au/policies-and-procedures> (external link, opens in a new window)

Department of Health and Human Services, Health Victoria: [Victorian action plan for pandemic influenza](https://www2.health.vic.gov.au/emergencies/emergency-type/infectious-diseases/pandemic-influenza) <https://www2.health.vic.gov.au/emergencies/emergency-type/infectious-diseases/pandemic-influenza> (external link, opens in a new window)

Department of Education and Training: [Human Influenza Pandemic Incident Response Procedures](http://www.education.vic.gov.au/Documents/childhood/providers/support/pandemicprocedure.docx) <http://www.education.vic.gov.au/Documents/childhood/providers/support/pandemicprocedure.docx> (external link, opens in a new window)

For more information or assistance with business continuity management, email:

Department of Education and Training: [business.continuity@edumail.vic.gov.au](mailto:business.continuity@edumail.vic.gov.au)

#### For further information

Ghassan Masri, Business Continuity Officer, Risk Unit, Strategy and Planning Division, Strategy and Performance Group, Department of Education and Training  
Email: [business.continuity@edumail.vic.gov.au](mailto:business.continuity@edumail.vic.gov.au)

## 5.11 Climate change adaptation and environmental sustainability

#### Environmental sustainability

The department is committed to environmental sustainability across the Victorian education sector, including reducing resource use and environmental impacts of its operations. In line with the National Quality Standard (3.3), the department funded early childhood organisations are encouraged to embed sustainable practices in their operations, and support children to become environmentally responsible.

The department does not currently publish environmental sustainability resources for early childhood organisations. There are resources published by Sustainability Victoria for schools that can assist early childhood organisations to reduce the resource use and environmental impacts of their operations. These are available on the [Sustainability Victoria website](http://www.sustainability.vic.gov.au/services-and-advice/schools/resources) <http://www.sustainability.vic.gov.au/services-and-advice/schools/resources> (external link, opens in a new window).

#### For further information

Caitlin Phillips, Manager, Portfolio Standards Unit, Standards and Planning Branch, Infrastructure and Sustainability Division, Infrastructure and Finance Services Group  
Telephone: (03) 9947 1862  
Email: [phillips.caitlin.c@edumail.vic.gov.au](mailto:phillips.caitlin.c@edumail.vic.gov.au)

## 5.12 Language services

### Department of Education and Training

The Victorian Interpreting and Translating Service (VITS) provides interpreting and translating services to the department. The department fully funds this service for all Victorian government schools, early childhood services or other support services delivered or funded by the department. Refer to the [Guidelines for using interpreting and translating services](http://www.education.vic.gov.au/school/principals/management/Pages/translateservice.aspx#link94) <http://www.education.vic.gov.au/school/principals/management/Pages/translateservice.aspx#link94> (external link, opens in a new window) for further information.

The use of VITS is mandatory for all Victorian government schools, early childhood services or other support services delivered or funded by the department. Contact VITS by telephone (03 9280 1923) to obtain a PIN and password to access the service.

The most efficient and cost effective method for booking an interpreter through VITS is via their online booking system. Bookings for on-site interpreters can be made on the [VITS booking system](http://client.vits.com.au/) <http://client.vits.com.au> (external link, opens in a new window).

#### For further information

Anne Gibbs, Manager, Major Projects and Procurement, Secondary Reform, Transitions and Priority Cohorts Division, Early Childhood and School Group, Department of Education and Training  
Telephone: 9651 0278  
Email: [language.services@edumail.vic.gov.au](mailto:language.services@edumail.vic.gov.au)

## 5.13 Cultural diversity planning

## Please contact your Performance and Planning Advisor for information about Department of Education and Training policies, procedures and initiatives in regards to this matter.

## 5.14 Improving inclusion and access for Aboriginal people and communities

Victorian Aboriginal peoples’ culture is rich, strong and alive. Resilience and cultural identity continue to provide a solid foundation for a positive future as the Aboriginal population grows.

It is also recognised, however, that Aboriginal people are among the most disadvantaged in Australia. In all social indicators including education, employment, health, housing, justice, child protection, disability and family violence, Aboriginal people rate far worse than non-Aboriginal people.

Both mainstream and Aboriginal Community Controlled Organisations (ACCOs) have important roles in addressing this disadvantage and improving education outcomes for Aboriginal Victorians through the provision of inclusive, accessible and culturally safe services.

The Department of Education and Training works with Aboriginal communities on a range of programs and initiatives aimed at improving Aboriginal children’s access to positive learning environments.

The following resources provide guidelines for improved Aboriginal inclusion and access:

#### The Victorian Aboriginal Affairs Framework 2013-2018

This overarching framework for Aboriginal affairs in Victoria reinforces government commitment to sustained and strategic effort to improve the quality of life of Aboriginal Victorians. It is underpinned by seven key access criteria for effective service design: cultural safety, affordability, convenience, awareness, empowerment, availability and respect. The publication is available on the [Aboriginal Victoria website](http://www.dpc.vic.gov.au/index.php/aboriginal-affairs/aboriginal-affairs-policy/victorian-aboriginal-affairs-framewor) <http://www.dpc.vic.gov.au/index.php/aboriginal-affairs/aboriginal-affairs-policy/victorian-aboriginal-affairs-framework> (external link, opens in a new window).

#### The Victorian Government Aboriginal Inclusion Framework

The Framework is a tool to review and reform current practices in relation to how organisations do business with, and deliver services to Aboriginal people, families and communities. The publication is available on the [Aboriginal Victoria website](http://www.dpc.vic.gov.au/index.php/aboriginal-affairs/aboriginal-affairs-policy/aboriginal-inclusion) <http://www.dpc.vic.gov.au/index.php/aboriginal-affairs/aboriginal-affairs-policy/aboriginal-inclusion> (external link, opens in a new window).

#### Koolin Balit: Victorian Government strategic directions for Aboriginal health 2012-2022

Through Koolin Balit, the Department’s vision is to improve within a decade, the length and quality of life of Aboriginal people in Victoria. In realising this vision and to achieve the priorities under Koolin Balit, it is critical to have a health system in which all service providers deliver high-quality services for all Aboriginal Victorians. A health system that includes strong Aboriginal organisations is a key enabler in delivering the Koolin Balit vision.

The department works together with Aboriginal organisations to strengthen the Aboriginal Community Controlled Health Organisation (ACCHO) sector. The publication is available on the Health website http://health.vic.gov.au/aboriginalhealth/koolinbalit.htm (external link, opens in a new window).

#### For further information

Ward Garwood, Senior Project Officer, Participation Transition and Inclusion Unit, Koorie Outcomes Division, Early Childhood and School Education Group  
Telephone: (03) 9651 3353  
Email: [garwood.ward.a@edumail.vic.gov.au](mailto:garwood.ward.a@edumail.vic.gov.au)

## 5.15 Multiple and complex needs initiative (MACNI)

## Please contact your Performance and Planning Advisor for information about Department of Education and Training policies, procedures and initiatives in regards to this matter.

## 5.16 With respect to age - 2009 (elder abuse prevention practice guidelines)

## 5.17 Vulnerable people in emergencies

## Please contact your Performance and Planning Advisor for information about Department of Education and Training policies, procedures and initiatives in regards to this matter.

## 5.18 Emergency preparedness policy

The department is committed to providing a safe and secure environment for all staff, families, students and children. Funded organisations are required to have policies and procedures in place and an up to date Emergency Management Plan (EMP). The department has developed a range of resources to assist education and care services in developing their EMP and, where relevant, their bushfire preparedness. These can be accessed on [Emergency Management](http://www.education.vic.gov.au/childhood/providers/support/Pages/emergency.aspx) <http://www.education.vic.gov.au/childhood/providers/support/Pages/emergency.aspx> (external link, opens in a new window). While the EMP template is not mandatory, you should review this template to ensure you have adequately addressed all potential risks in your plan.

#### Approved Child Care and Licensed Children’s Services

The National Quality Framework (NQF) and the Children’s Services Act 1996 require services to operate in a way that ensures that every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury, including responding to potential bushfire risks.

Regulations 97 and 168 (2) (e) of the Education and Care Services National Regulations 2011 stipulate that approved education and care services, must have an emergency and evacuation policy and procedure which includes:

* risk assessment to identify the potential emergencies that are relevant to the service;
* instructions for what must be done in the event of an emergency; and
* emergency and evacuation procedures and a floor plan.

Each year the department offers information sessions to assist early childhood services to develop a robust EMP.

For further information and resources on emergency management, refer to [Early Childhood Emergency Management](http://www.education.vic.gov.au/childhood/providers/support/Pages/emergency.aspx) <http://www.education.vic.gov.au/childhood/providers/support/Pages/emergency.aspx> (external link, opens in a new window).

#### Bushfire at Risk Register

Centre based services located in fire-prone areas are placed on the Department’s Bushfire At-Risk Register (BARR) and additional conditions are placed on their service approval. The service must submit their EMP annually and close on Code Red period as determined by their Bureau of Meteorology district.

For information about understanding the responsibilities of managing bushfire risks in centre-based services, refer to the fact sheet available on [Emergency Management Requirements](http://www.education.vic.gov.au/childhood/providers/regulation/Pages/emergencymanagementrequirements.aspx) <http://www.education.vic.gov.au/childhood/providers/regulation/Pages/emergencymanagementrequirements.aspx> (external link, opens in a new window).

#### Other Early Childhood Services and Programs

Other Early Childhood Services and Programs do not operate under the National Quality Framework or the Children’s Services Act 1996. They include the Aboriginal Early Years Services, Early Childhood Intervention Services, access and participation to funded kindergarten program and services including Access to Early Learning, Maternal and Child Health Services, Parenting Services, Best Start and the Children’s Facilities Capital Program.

#### Services provided in own home

For services provided to children and families in the family residence (whether leased or owned by the family), the department expects that the client (and where appropriate, the owner of the premises) will have responsibility for their own fire safety and ensure that the premises meet all relevant building local laws, regulations or legislation, including retrospective obligations.

The department notes that the relevant authorities (for example, local councils and fire authorities, Metropolitan Fire and Emergency Services Board and Country Fire Authority) are responsible for enforcement of fire safety provisions.

Funded organisations have a duty of care to the child during the provision of services and hence, have responsibility r for a child’s fire safety.

#### Premises

The department expects that service premises meet the relevant building regulations, local laws, or legislation at the time of construction, including retrospective provisions (such as smoke alarm requirements). Any subsequent building works shall meet the relevant building approval provisions at the corresponding time.

Where this is not the case, or where the funded organisation determines that the premises do not provide an appropriate level of fire safety, the organisation is expected to ensure that the premises are brought up to minimum regulatory standard and compliant with the Victorian Building Authority’s building regulations.

#### Operational readiness

The funded organisation must ensure that appropriate operational readiness measures are developed, implemented and reviewed. This includes (but is not limited to) fire emergency management and evacuation procedures, staff training to implement procedures, and maintenance of fire safety systems.

#### Management tasks

The funded organisation must ensure that appropriate fire safety readiness measures are developed, implemented and reviewed. These include:

* holding a current fire risk audit that is less than 5 years old;
* fire emergency management and evacuation procedures;
* training of staff to implement the procedures developed;
* maintenance of all the fire safety systems and any deviations through an alternative solution; and
* ensuring that the building is compliant with the Victorian Building Authority’s building regulations.

#### ‘All Hazards’ approach

It is expected that a funded organisation prepares for, responds to, and recovers from, emergencies in accordance with the 'all hazards' approach. This includes, but is not limited to, fire in the building, bushfire, flood, relocation, evacuation and prolonged service interruption.

#### For further information

Therese Carroll, Manager, Capability and Response Unit, Emergency Management Division, Regional Services Group  
Telephone: 03 9651 3690  
Email: [emergency.management@edumail.vic.gov.au](mailto:emergency.management@edumail.vic.gov.au)

## 5.19 Conducting research in early childhood settings and schools

Department funded organisations are often approached to participate in research (including evaluations), or to assist with recruitment of families and children to a research project. Organisations should only agree to take part in/assist with recruitment for research that has been reviewed and approved by the department.

The department welcomes high-quality proposals for research which contributes to knowledge of early childhood development, young people’s wellbeing and education outcomes. Any research project that relates to, or involves: users of Early Childhood Development services; services funded by the department; Victorian government schools; teachers; or staff should be submitted to the department for approval. This includes requests for access to data sets that are owned or managed by the department.

The department reviews applications according to criteria under the following headings:

* benefit and value to the department and participants;
* burden and impact on the setting and the participants;
* appropriateness of methodology in the setting; and
* ethical design and conduct, which includes issues such as informed consent, confidentiality, privacy and protection from harm.

This review is separate to the ethical review of the proposal by a Human Research Ethics Committee (HREC). Where applicable, research applications must also be approved by a HREC.

Information about procedures and an application form can be found on the [Conducting Research page](http://www.education.vic.gov.au/about/research/Pages/conducting.aspx) <http://www.education.vic.gov.au/about/research/Pages/conducting.aspx> (external link, opens in a new window) on the Department of Education and Training's website.

### For further information

Dr Zoran Endekov, Senior Policy Officer, Strategic Evaluation and Evidence Unit, Insights and Evidence Branch, Performance and Evaluation Division, Strategy and Performance Group.  
Telephone: 03 9637 3131  
Email: [research@edumail.vic.gov.au](mailto:research@edumail.vic.gov.au)

## 5.20 Asset Management Accountability Framework

## Please contact your Performance and Planning Advisor for information about Department of Education and Training policies, procedures and initiatives in regards to this matter.

## 5.21 Asset maintenance

## Please contact your Performance and Planning Advisor for information about Department of Education and Training policies, procedures and initiatives in regards to this matter.

## 5.22 Victorian Carers Recognition Act

## Please contact your Performance and Planning Advisor for information about Department of Education and Training policies, procedures and initiatives in regards to this matter.

## 5.23 Hoarding and squalor resources

## Please contact your Performance and Planning Advisor for information about Department of Education and Training policies, procedures and initiatives in regards to this matter.

## 5.24 Child Safe Standards

To help protect children from abuse, the Victorian Government has introduced compulsory minimum Child Safe Standards (the Standards) that apply to organisations that provide services for children.

#### Who do the Standards apply to?

From 1 January 2016, the Standards apply to organisations that provide services for children that are government funded and/or regulated (Category 1 organisations). These organisations include schools, out-of-home care providers, early childhood providers and health services.

#### What are the Standards?

The Child Safe Standards are as follows:

To create and maintain a child safe organisation, an entity to which the Standards apply must have:

**Standard 1**: Strategies to embed an organisational culture of child safety, including through effective leadership arrangements

**Standard 2**: A child safe policy or statement of commitment to child safety

**Standard 3**: A code of conduct that establishes clear expectations for appropriate behaviour with children

**Standard 4**: Screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel

**Standard 5**: Processes for responding to and reporting suspected child abuse

**Standard 6**: Strategies to identify and reduce or remove risks of child abuse

**Standard 7**: Strategies to promote the participation and empowerment of children.

In complying with the Child Safe Standards, an entity to which the Standards apply must include the following principles as part of each Standard:

* promoting the cultural safety of Aboriginal and Torres Strait Islander children
* promoting the cultural safety of children from culturally and/or linguistically diverse backgrounds
* promoting the safety of children with a disability.

#### What are organisations required to do?

The Standards are compulsory for all organisations in scope, but not prescriptive. This allows the diverse range of organisations in scope some flexibility in how they meet requirements of the Standards.

[An Overview for the Victorian Child Safe Standards](http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/child-safe-standards-resources) <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/child-safe-standards-resources> (external link, opens in a new window) provides a non-exhaustive list of example measures that organisations could put in place to meet each of the Standards.

#### Early childhood services

From 1 January 2016, all early childhood services operating under the National Quality Framework (NQF) and the [Children’s Services Act 1996](http://www.austlii.edu.au/au/legis/vic/consol_act/csa1996196/) <http://www.austlii.edu.au/au/legis/vic/consol\_act/csa1996196/> (external link, opens in a new window) have been required to meet the child safe standards.

The existing regulatory framework set out in the [Education and Care Services National Law Act 2010](http://www.austlii.edu.au/au/legis/vic/consol_act/eacsnla2010346/) <(http://www.austlii.edu.au/au/legis/vic/consol\_act/eacsnla2010346/> external link, opens in a new window) and the Children’s Services Act 1996 will be used to regulate compliance with the child safety standards of services operating under those Acts.

The Department of Education and Training’s Quality Assessment and Regulation Division (QARD) will have primary responsibility for ensuring compliance in the early childhood sector.

#### Further information

The Commission for Children and Young People is the lead capacity building body for the Standards. For further information, contact the Commission’s information line by email [childsafestandards@ccyp.vic.gov.au](mailto:childsafestandards@ccyp.vic.gov.au) or telephone (03) 8601 5884.

Refer to the [Department of Health and Human Services website](http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/child-safe-standards) <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/child-safe-standards> (external link, opens in a new window) for further information about the Standards. You can also email [childsafestandards@dhhs.vic.gov.au](mailto:childsafestandards@dhhs.vic.gov.au)

#### Contacts

**Early childhood services** operating under the National Quality Framework or the Children's Services Act 1996 should contact:  
Email: [licensed.childrens.services@edumail.vic.gov.au](mailto:licensed.childrens.services@edumail.vic.gov.au)  
Licensed children's services enquiry line: 1300 307 415

**Other organisations providing services for children** can contact the Department of Health and Human Services for further information:  
Telephone: (03) 9096 0000.  
Email: [childsafestandards@dhhs.vic.gov.au](mailto:childsafestandards@dhhs.vic.gov.au)

## 5.25 Reportable Conduct Scheme

The Victorian Government is continuing its commitment to make Victoria safer for all children by introducing a reportable conduct scheme from 1 July 2017.

The Department of Health and Human Services as well as certain organisations funded by the department are included in the reportable conduct scheme.

The reportable conduct scheme requires organisations to respond to allegations of child abuse, thoroughly investigate the allegations and notify the Commission for Children and Young People of the investigation outcome. Where reportable conduct is substantiated, a person’s Working with Children Check can be reassessed.

The Commission for Children and Young People oversees the reportable conduct scheme and is working with organisations to assist them to understand their obligations.

Under the reportable conduct scheme, organisations with a high level of responsibility for children are required to notify the [Commission for Children and Young People (CCYP)](https://ccyp.vic.gov.au/) of allegations that staff has engaged in 'reportable conduct' or 'misconduct that may involve reportable conduct'.

**What is reportable conduct?**

An allegation of reportable conduct means any information that leads a person to form a ‘reasonable belief’ that an 'employee' has committed reportable conduct or 'misconduct that may involve reportable conduct'. This includes information about something that is alleged to have occurred outside the course of the person’s employment or engagement by an organisation.

There is an allegation of 'reportable conduct' where a person has a ‘reasonable belief’ that there has been:

* + a sexual offence (even prior to criminal proceedings commencing), sexual misconduct or physical violence committed against, with or in the presence of a child
  + behaviour causing significant emotional or psychological harm
  + significant neglect of a child
  + ‘misconduct’ involving any of the above.

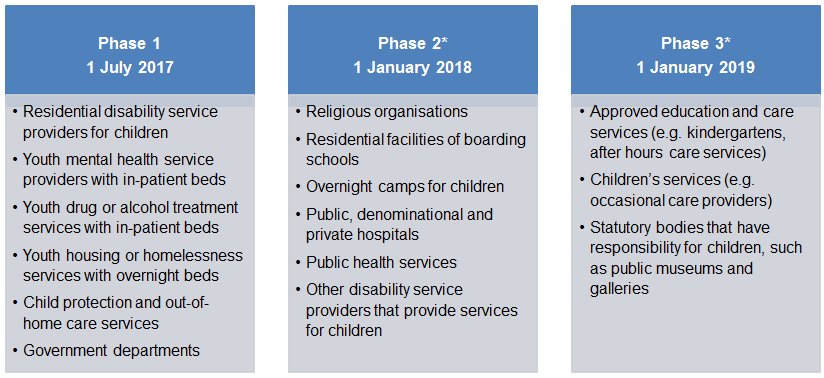
Reportable conduct extends to conduct occurring outside service delivery or the course of employment. This enables allegations of reportable conduct to be reported and responded to regardless of where the alleged conduct arises.

The scope of ‘reportable conduct’ is wide and is not limited to conduct that may be criminal.

Information about what behaviour is considered to be reportable conduct is available [on the CCYP website](https://ccyp.vic.gov.au/child-safety/resources/reportable-conduct-scheme-information-sheets/).

The reportable conduct scheme maintains the primacy of an investigation by Victoria Police of any allegations of criminal misconduct and requires allegations of criminal conduct to be reported to Victoria Police.

Victoria’s reportable conduct scheme is being introduced in three phases:



The reportable conduct scheme complements the Child Safe Standards. More information about the Child Safe Standards is available at <http://providers.dhhs.vic.gov.au/child-safe-standards>.

**Organisation Requirements**

The reportable conduct scheme is compulsory for all organisations in scope.

Organisations should review their existing policies and identify where they need to take further action to comply with the reportable conduct scheme.

**Further Information**

More information about the reportable conduct scheme can be found on the [Commission for Children and Young People’s website](https://ccyp.vic.gov.au/reportable-conduct-scheme/) <https://ccyp.vic.gov.au/reportable-conduct-scheme/> (external link, opens in a new window)

## 5.26 Fraud and Corruption Control Framework

## Please contact your Performance and Planning Advisor for information about Department of Education and Training policies, procedures and initiatives in regards to this matter.

## 5.27 Gifts, Benefits and Hospitality Policy

## Please contact your Performance and Planning Advisor for information about Department of Education and Training policies, procedures and initiatives in regards to this matter.

# Chapter 6. Service plan and funding information

## 6.1 Overview of schedules 2 and 3

Service plan and funding information is provided in schedules 2 and 3 of the Service agreement.

Schedule 2 provides:

* a funding summary
* an agreement level payment schedule
* data collection requirements (for performance reporting and other data reporting)
* service plan details, including:
  + - services to be provided by the organisation
    - funding to be paid by the department for the services
    - service performance measures and targets
    - service delivery catchment information where applicable
    - any additional requirements related to the specific service plan or activity.

Schedule 3 is an optional schedule which is used to provide agreement specific information and requirements.

## 6.2 Funding summary and payment schedule

This section provides information contained in the funding summary and payment schedule, located in schedule 2 of the Service agreement.

### 6.2.1 Funding summary and funding types

#### Funding summary

The funding summary in schedule 2 of the Service agreement lists the total annual funding an organisation is to receive for each service it delivers. This funding information is provided for each applicable financial year of the Service agreement.

Funding and payment amounts in schedule 2 are exclusive of Goods and Services Tax (GST). Where GST is payable, it will be added at the time each payment is made.

Organisations can view details of Service agreement payments via the Invoices tab in the Service agreement Module on the [Funded agency channel](https://fac.dhhs.vic.gov.au/policies-and-procedures) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window).

Projected funding for up to a four year period is also available from the Service agreement Module on the Funded agency channel. Authorised organisation staff can view and download this information. There are also reports available on [Funded agency channel](https://fac.dhhs.vic.gov.au/policies-and-procedures) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window). Where funding is based on a unit price, users will see information about the price, number of units and the total funding. Funding that is not based on a unit price, often called block-funding, is also shown.

#### Funding types

**Ongoing funding**

Ongoing funding, sometimes referred to as recurrent or base funding, is funding provided to the organisation on an ongoing basis, subject to the satisfactory delivery of services. Ongoing funding may be changed via negotiation and a variation to the Service agreement or via adjustments to the Service agreement. Ongoing funding is subject to the standard clauses regarding suspension (clause 12), cessation (clause 13) and termination (clause 14).

**Fixed term funding**

Fixed term or non-recurrent funding is where funding is for a specified period. It may be paid as a lump sum or over multiple payment dates and financial years for the period services are to be provided. Fixed term funding is subject to the standard clauses regarding suspension (clause 12), cessation (clause 13) and termination (clause 14).

**Minor capital funding**

Minor capital funding refers to funding specifically for the purchase of a physical asset. These amounts are normally paid as a lump sum.

The Department of Education and Training has a specific capital grant for early childhood facilities worth $300,000 or less. Specific clauses on the Early Childhood Facilities Grant are included in clause 27 in Department of Education and Training's Service agreement.

**Prior Year Adjustment**

Funding adjustments that relate to services in a previous financial year are shown in schedule 2 as Prior Year Adjustments. These can be both positive (payment for services provided in a previous year) or negative (where the department is recouping overpayments that relate to services in a previous financial year).

### 6.2.2 Payment schedule

The payment schedule in the Service agreement provides the basis for payments to organisations and includes details of the date and amount of payments to be made over the current financial year of the agreement.

The payment schedule is updated whenever funding is varied in the Service agreement. The payment schedule shown in the Service agreement document is at agreement level only. An Excel version of the payment schedule is available from the Contracts tab from the Service agreement Module on the [Funded agency channel](https://fac.dhhs.vic.gov.au) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window). This Excel version of the payment schedule is provided at the lower Commitment level.

Generally, most organisations are paid monthly on the first Tuesday of each month. However, some service activities, such as the Neighbourhood House Coordination Program are paid quarterly on the first Tuesday in July, October, January and April.

Health services are paid for health related services managed in the Budget Payment System (BPS) on the second Tuesday of the month.

Common practice is to spread funding equally across the payment dates, with minor capital and establishment funding items paid as a lump sum. Funded organisations should discuss any cash flow requests with their department contact/program and service adviser.

The payment schedule displayed in the Service agreement does not include amounts for GST. Where GST is payable it is added to the scheduled payment when each payment is made.

Details of all Service agreement payments are provided on the Invoices tab of the Service agreement Module on the [Funded agency channel](https://fac.dhhs.vic.gov.au) <https://fac.dhhs.vic.gov.au> (external link, opens in a new window).

## 6.3 Data collection requirements

Schedule 2 of the Service agreement will specify the data collection requirements of organisations for each service they deliver. The Agreement will indicate the set of data which needs to be provided to the department on the service to be delivered

The [Department of Health and Human Services Policy and Funding Guidelines](http://www.dhs.vic.gov.au/about-the-department/plans,-programs-and-projects/plans-and-strategies/key-plans-and-strategies/policy-and-funding-plan-department-of-human-services) <https://www.dhhs.vic.gov.au/policy-and-funding-guidelines> (external link, opens in a new window) and the [Department of Education and Training Early Childhood Program and Services Guide](http://www.education.vic.gov.au/childhood/providers/funding/Pages/devgroupprogguide.aspx) <http://www.education.vic.gov.au/childhood/providers/funding/Pages/devgroupprogguide.aspx> (external link, opens in a new window) will provide greater information on the data collection requirements for organisations, including data set and data system information.

## 6.4 Service plan information

Service plans listed in Schedule 2 group together like service activities specific to a program area and identify the department's region/division/group providing funding.

Where an organisation provides a single service activity, their agreement will consist of one service plan. Organisations providing multiple services across different program areas and/or regions/divisions/groups will hold agreements made up of multiple service plans.

Each service plan will have at least one service activity and will provide the following information:

* activity number and name (e.g. 17201 – Futures for Young Adults)
* financial year
* funding - baseline, variation and total funding applicable for the financial year. All funding detailed in the agreement excludes GST.
* performance measures and targets applicable to the service activity being funded. Each service activity may have up to three standard performance measures. Performance measures may include for example the number of clients accessing a service or may be focused on the quality of service provided, for example the numbers of clients with a case plan.

Other service delivery requirements may be listed at the beginning of the service plan. These requirements may relate to a specific service activity, or more broadly to the service plan.

Further details of the activity specifications are provided in the [Department of Health and Human Services Policy and Funding Guidelines](http://www.dhs.vic.gov.au/about-the-department/plans,-programs-and-projects/plans-and-strategies/key-plans-and-strategies/policy-and-funding-plan-department-of-human-services) <https://www.dhhs.vic.gov.au/policy-and-funding-guidelines> (external link, opens in a new window) and the [Department of Education and Training Early Childhood Program and Services Guide](http://www.education.vic.gov.au/childhood/providers/funding/Pages/devgroupprogguide.aspx) <http://www.education.vic.gov.au/childhood/providers/funding/Pages/devgroupprogguide.aspx> (external link, opens in a new window). These documents include information on the service to be delivered, target group for the service, monitoring and review requirements, standard performance measures and counting rules, service redevelopment and key documents (service guidelines).

## 6.5 Schedule 3 additional agreement level information

Schedule 3 is an optional schedule that enables the relevant department and organisation to:

* record information about the relationship between the department and the organisation
* record specific actions that the organisation and/or the department will take that relate to the Service agreement
* record any other specific requirements that are not covered in other parts of the Service agreement.

# Attachment 1

## Organisation assets register - data requirements

|  |  |  |
| --- | --- | --- |
| No | Field name | Field use |
| 1. | Asset description | General Description: - Use the following formula: (Item) (Make) (Model) |
| 2. | Serial number | Serial number recorded on the manufacturer's label or plate. |
| 3. | Asset number | Each asset recorded on the assets register should have a unique identification number that may be used to locate the asset entry in the assets register. Depending on the type of assets register kept, the asset number could be a line or folio number in a manual ledger through to a bar code label number in a sophisticated computerised system. |
| 4. | Supplier | As described on the purchase order. |
| 5. | Asset custodian/controller | Person or title of person with custodial responsibility. |
| 6. | Address | Enter full postal address where the asset is located. |
| 7. | Asset value | Usually the gross purchase price, that is, the cost before deducting any trade in allowance. |
| 8. | Purchase date | Purchase date of asset or date asset was transferred from another funded organisation. |
| 9. | Department funds used | Enter the $ amount of department funds used to acquire this asset. |
| 10. | Year of funding | Enter the financial year when grant was disclosed as a cash receipt. |
| 11. | Department program | The department program that funded or part funded the asset purchase. |
| 12. | Accumulated depreciation | Enter: asset value x (depreciation rate \*x years\*\*) |
| 13. | Written down value | Enter - asset value less accumulated depreciation. |
| 14. | Depreciation date | Accumulated depreciation and written down value should be calculated annually to 30 June. |
| 15. | Disposal date | Date that asset was removed from service. |
| 16. | Disposal method | Enter details of disposal, for example, trade in, sale, theft etc. |
| 17. | Disposal receipts | Enter the $ proceeds received on disposal of asset. |

## Sample of an asset register

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Organisation: | | | | (Name) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | | |
| Asset location: | | | | (Address) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | | |
| Asset id number (unique no) | | Asset description (item) (make) (model) | | | Asset serial number (as given) | Supplier (name) (address) | | Asset custodian (officer title) | |
|  | | | | | | | | | |
| Asset id number (unique no) | Purchase date | | Asset value $'s | Department funds used $'s | Financial year of funding | Department program | Accum depreciation $'s | Written down value $'s | Dep- reciation date |
|  | | | | | | | | | |
| Asset ID number (unique no) | Disposal date | | | Disposal method | | | | Disposal receipts $'s | |
|  |  | |  | (sale by public tender) | | | |  | |
|  |  | |  | (sale by public auction) | | | |  | |
|  |  | |  | (theft) etc. | | | |  | |
|  | | | | | | | | | |

## Sample depreciation of non-current physical assets

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Asset item** Photocopier | **Purchase date** 21 September 2012 | **Purchase cost** $5,000 | | **Depreciation rate** 20 per cent per annum | |
| **Financial year** | **Depreciation charge calculation** | **Annual opening value $'s** | **Depreciation charge $'s** | **Accumulated depreciation $'s** | **Written down value $'s** |
| 2012-13 (9 months) | 5000 x (20% x 9) =  750 12 | 5000 | 750 | 750 | 4250 |
| 2013-14 (12 months) | 5000 x (20% x 12) = 1000 12 | 4250 | 1000 | 1750 | 3250 |
| 2014-15 (12 months) | 5000 x (20% x 12) = 1000 12 | 3250 | 1000 | 2750 | 2250 |
| 2015-16 (12 months) | 5000 x (20% x 12) = 1000 12 | 2250 | 1000 | 3750 | 1250 |
| 2016-17(12 months) | 5000 x (20% x 12) = 1000 12 | 1250 | 1000 | 4750 | 250 |
| 2017-18 (3 months) | 5000 x (20% x 3) =  250 12 | 250 | 250 | 5000 | 0 |

## Recommended annual depreciation rates

Sample of assets and their rates of depreciation

| Item | Percentage |
| --- | --- |
| Adding machine | 20 |
| Air conditioner, window | 20 |
| Ankle exerciser | 6.6 |
| Automobile - Ambulance | 25 |
| Automobile - Delivery | 25 |
| Automobile - Passenger | 25 |
| Balance - Electronic | 14.3 |
| Balance - Precision mechanical | 6.6 |
| Basinet | 6.6 |
| Basinet, heated | 10 |
| Battery charger | 10 |
| Bed | 6.6 |
| Beeper, paging | 20 |
| Bench, metal/wood | 6.6 |
| Bin, metal/wood | 6.6 |
| Cabinet - Bedside | 6.6 |
| Cabinet - File | 6.6 |
| Cabinet - Instrument | 6.6 |
| Camera: SLR | 12.5 |
| Camera: video | 12.5 |
| Cash register | 10 |
| Chair - Dental | 6.6 |
| Chair - Executive | 6.6 |
| Chair - Podiatry | 6.6 |
| Chair - Typist, ergonomic | 6.6 |
| Chart rack | 5 |
| Clock | 10 |
| Clothes locker - Coffee maker | 20 |
| Clothes locker - Fibreglass/metal | 5.5 |
| Clothes locker - Laminate/wood | 8.3 |
| Collator, electric | 10 |
| Compactor, waste | 10 |
| Compressor, air | 6.6 |
| Computer - Mainframe | 14.3 |
| Computer - Mini | 20 |
| Computer - Personal | 20 |
| Computer - Portable | 20 |
| Computer - Terminal | 20 |
| Cooler, water | 10 |
| Credenza | 6.6 |
| Crib | 6.6 |
| Data storage unit - Mechanical | 10 |
| Data storage unit - Non-mechanical | 6.6 |
| Dental drill with syringe | 10 |
| Desk, metal/wood | 5 |
| Dishwasher | 10 |
| Drier - Clothes | 10 |
| Drier - Hair | 12.5 |
| Drier - Sonic | 10 |
| Drill press | 5 |
| Drying oven, paint shop | 8.3 |
| Duplicator | 10 |
| Exercise apparatus - Computerised | 20 |
| Exercise apparatus - Non-computerised | 6.6 |
| Facsimile machine | 16.6 |
| Film | 10 |
| Floor scrubber | 12.5 |
| Floor waxer | 12.5 |
| Furniture - Lobby/public areas | 10 |
| Furniture - Office | 6.6 |
| Grinder, food waste | 6.6 |
| Hoist, chain or cable | 8.3 |
| Hot food box | 6.6 |
| Hydrotherapy equipment | 6.6 |
| Imprinter, address | 12.5 |
| Kiln | 6.6 |
| Lamp, infra-red | 10 |
| Lathe | 6.6 |
| Library furnishings | 5 |
| Light portable, emergency | 6.6 |
| Light, examining | 10 |
| Loom | 6.6 |
| Mailing machine | 10 |
| Mannequin | 10 |
| Microfiche reader | 10 |
| Microphone | 12.5 |
| Model, anatomical | 10 |
| Oven - Domestic | 6.6 |
| Oven - Microwave | 20 |
| Paint spray booth | 6.6 |
| Paint spray machine | 10 |
| Paper baler | 6.6 |
| Parallel bars | 6.6 |
| Photocopier | 10 |
| Piano | 5 |
| Polisher and buffing machine | 12.5 |
| Polisher, floor | 12.5 |
| Power Supply | 10 |
| Projector - Film | 10 |
| Projector - Slide | 10 |
| Refrigerator - Commercial | 10 |
| Refrigerator - Domestic | 10 |
| Refrigerator - Under-counter | 10 |
| Rotary tiller | 10 |
| Safe - Key | 10 |
| Safe - Narcotic | 10 |
| Safe - Office | 5 |
| Saw - Band | 10 |
| Saw - Bench, electric | 10 |
| Scale - Baby | 6.6 |
| Scale - Chair | 6.6 |
| Scale - Postal | 10 |
| Sewing machine | 6.6 |
| Shelving, portable, steel | 5 |
| Skeleton | 10 |
| Slide | 10 |
| Stapler, electric/air | 10 |
| Stencil machine | 10 |
| Stereo equipment | 20 |
| Stretcher | 6.6 |
| Table - Examining | 6.6 |
| Table - Food preparation | 6.6 |
| Table - Instrument | 6.6 |
| Table - Light | 6.6 |
| Table - Pool | 10 |
| Table - Television | 20 |
| Table - Therapy | 6 |
| Toaster - Commercial | 10 |
| Toaster - Domestic | 20 |
| Transcribing equipment | 20 |
| Treadmill, electric | 12.5 |
| Trolley - Domestic | 10 |
| Trolley - Food | 10 |
| Trolley - Utility | 10 |
| Truck - Forklift | 10 |
| Truck - Hand | 10 |
| Typewriter - Electric | 20 |
| Typewriter - Manual | 20 |
| Urn, coffee | 10 |
| Vacuum cleaner | 10 |
| Vending machiner | 10 |
| Vice, large bench | 5 |
| Walkie-talkie | 20 |
| Warmer - Dish | 10 |
| Warmer - Food | 10 |
| Washing machine - Commercial | 10 |
| Washing machine - Domestic | 12.5 |
| Wheelchair | 10 |