

Social Services Regulations 2023: Regulatory Impact Statement

OFFICIAL

To receive this document in another format, please [email the Social Services Regulation Reform team](mailto:regulationreform@dffh.vic.gov.au) <regulationreform@dffh.vic.gov.au>.

Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.

© State of Victoria, Australia, Department of Families, Fairness and Housing, April 2023.

In this document, 'Aboriginal' refers to both Aboriginal and Torres Strait Islander people.

ISBN 978-1-76130-048-6 (pdf/online/MS word)

Available on the [Engage Victoria website](https://engage.vic.gov.au/regulatory-impact-statement-and-draft-regulations-for-social-services) <https://engage.vic.gov.au/regulatory-impact-statement-and-draft-regulations-for-social-services>.

Contents

Summary	5
Background	5
Public consultation	19
Consolidated list of stakeholder questions.....	19
1. Introduction.....	22
Scope of the Regulatory Impact Statement	23
2. Context	24
Social services in Victoria.....	24
Social services regulation.....	26
3. Problem definition	29
Overarching problems of the existing legislative framework	29
Specific problems being addressed by the regulations	32
4. Objectives.....	33
Overarching legislative purpose and objectives	33
5. Options identification.....	34
Proposed scope of the regulations.....	34
Non-regulatory options and explanation of the Reference Case.....	35
Regulatory options examined in the Regulatory Impact Statement.....	36
6. Methodology for assessing options.....	39
Data limitations and use of multi-criteria analysis	39
Assessment method.....	40
7. Scope of services	43
Options for scope of services	43
8. Registration requirements.....	45
Options for registration requirements.....	45
Assessment of options for registration requirements.....	47
Summary of scores – registration requirements	61
9. Service requirements and outcomes	62
Options for service requirements and outcomes	62
Assessment of options for service requirements and outcomes	70
Summary of scores – service requirements and outcomes.....	81
10. Worker and Carer Exclusion Scheme	82
Options for regulating out-of-home care workers and carers	82
Assessment of options for regulating out-of-home care workers and carers	84
Summary of scores – regulating out-of-home workers and carers.....	95
11. Preferred options.....	96
Summary of preferred options.....	96

- 12. Implementation plan..... 102**
 - Transitional arrangements..... 102
 - Overall implementation approach 102
- 13. Evaluation strategy 104**
 - Statutory review of the Scheme 104
 - Sunsetting of the scheme regulations 104
- 14. Stakeholder consultation..... 105**
 - Social Services Regulation Taskforce..... 105
 - Consultation undertaken to inform the Regulatory Impact Statement..... 105
- Appendix 1: Draft regulations not analysed in the Regulatory Impact Statement 110**
- Appendix 2: In-scope social services 123**
- Appendix 3: Methods of collecting data for assessing regulatory options..... 124**
- Appendix 4: Sector-specific risks 127**
- Appendix 5: Current regulatory and complaints landscape for social services..... 129**
- Appendix 6: Key elements of current approach to regulating social services 131**

Summary

Background

Context – social services

Victorians access important social services every day. These services play a critical role in supporting Victorians experiencing vulnerability to maximise their wellbeing and their participation in society. The profile and characteristics of social service users is varied in terms of age, cultural background, financial capacity, physical location, capacity to access services, their unique experiences and their needs. The services they access are varied and include services for: children, young people and their families; children in out-of-home care; people with disability; people experiencing, or at risk of, family violence, sexual assault or homelessness; and people accessing supported residential services.

Social service providers also vary in their size, staffing profile, levels of funding, geographic location, service mix and social service user profiles.

It is also important to consider the wider context in relation to the social services sector, which is relevant in the context of this Regulatory Impact Statement. This includes workforce shortages exacerbated by the fatigue and extreme pressure experienced by the sector during and after the COVID-19 pandemic.

Social Services Regulatory Reform

Regulation of social services aims to protect service users from harm and abuse. Currently in Victoria, quality and safety of social services is monitored through a combination of legislation, compliance monitoring and performance reporting through the Department of Families, Fairness and Housing's (the department) service agreement management system.

Victoria's social services regulatory framework is fragmented across various legislative schemes and structures resulting in inconsistent regulation. In addition, some social services such as those delivered by the department, family violence, sexual assault and homelessness support services, do not fall within the regulatory remit of the current regulator (the Human Services Regulator).

To address these regulatory gaps and failings that have contributed to avoidable harm for some social services users, the *Social Services Regulation Act 2021* (the Act) was passed by the Victorian Parliament in September 2021. The Act introduced a new regulatory framework effective from 1 July 2024. The Act aims to mitigate risks to service users by establishing:

- a new independent regulator (the Social Services Regulator)
- mandatory and ongoing registration for social service providers within the scope of the new regulatory scheme
- six Social Services Standards that all registered social service providers must meet
- a Worker and Carer Exclusion Scheme
- a comprehensive and graduated set of enforcement tools to support early intervention and enable the regulator to respond to risk proportionately and in a timely manner.

The Act also gives the Social Services Regulator a suite of tools to better manage risks in an ongoing way.

Specific problems being addressed by the Regulations

Regulations are required to operationalise all aspects of the reforms to social services regulation set out in the Act. These aim to:

- articulate the scope of services that will be required to comply with the proposed regulations
- set out the requirements for registering service providers
- specify a set of outcomes and service requirements that service providers must comply with, that correspond to the six Standards
- set out the details of the Worker and Carer Exclusion Scheme.

Purpose of the Regulatory Impact Statement

The *Subordinate Legislation Act 1994* requires a Regulatory Impact Statement to be prepared for any proposed statutory rule that imposes a significant economic or social burden on a sector of the public, including any proposed regulations.

The Regulatory Impact Statement process is intended to ensure regulation is only implemented when there is a justified need, only the most efficient forms of regulation are adopted, and there is a process of public consultation in developing the proposed regulatory measures.

This Regulatory Impact Statement aims to answer the following key questions:

- Why is the government considering action? (problem analysis)
- What outcomes is the government aiming to achieve? (objectives for action)
- What are the possible different courses of action that could be taken to achieve those outcomes? (identify feasible options)
- What are the expected impacts (benefits and costs) of the options and what is the preferred option? (impact analysis)
- What are the characteristics of the preferred option, including impacts on providers and competition impacts? (summarise the preferred option)
- How will the preferred option be put into place? (implementation plan)
- When (and how) will the government evaluate the effectiveness of the preferred option in meeting the objectives? (evaluation strategy)

Options considered

The purpose and objectives of the Act cannot be achieved without introducing regulations. The proposed regulations contained in this Regulatory Impact Statement seek to operationalise fundamental aspects of the reforms introduced by the Act across four key areas:

- scope of services
- registration requirements
- service requirements
- regulation of out-of-home care workers and carers.

Options are considered for each of these four areas.

The Act also enables fees to be charged by the regulator and prescribed in regulations¹. This will be the subject of a separate Regulatory Impact Statement in late 2023. The Act also provides for specific regulations to be made for the supported residential services sector. It is intended that these regulations will be substantially re-made in a way that is consistent with existing regulations

for this sector. The detailed draft regulations for supported residential services will be subject to a separate process.

Transitional regulations are also being developed separately (refer to **chapter 12** for further detail).

Regulations that are not analysed in detail in this document are summarised in **Appendix 1**.

Scope of services

The services within the scope of the scheme, and as proposed in the draft regulations, are summarised at **Appendix 2**. They are categories of social services principally outlined in the second reading speech for the Social Services Regulation Bill 2021.² These are:

- some services delivered by the department including child protection services and secure welfare services
- out-of-home care services for children and young people
- community-based child and family services that are required to register under the *Children, Youth and Families Act 2005* such as early parenting, intake services, Aboriginal child specialist advice support services and counselling services
- disability services provided or funded by the department, and disability services funded by the Transport Accident Commission or Victorian WorkCover Authority trading as WorkSafe Victoria (WorkSafe)
- supported residential services
- family violence services including case management, support and accommodation services provided to people experiencing family violence and services for perpetrators
- sexual assault services
- homelessness support services such as assessment, support and some accommodation services (such as crisis and transitional accommodation, but not community and public housing).

Given the policy scope of the scheme was substantively established during passage of the Bill, only a limited analysis was undertaken for the prescribed scope of services. There was a more extensive options analysis for registration requirements, service requirements and regulation of out-of-home care workers.

Registration requirements

The Act establishes ongoing registration for service providers, so providers will only have to register once. Currently registration must be renewed periodically³. In addition, service providers providing disability services who are currently registered under the *Disability Act 2006*, out-of-home care services and children, youth and family services registered under the *Children, Youth and Families Act* and supported residential services registered under the *Supported Residential Services (Private Proprietors) Act 2010*, will have their services automatically registered under the new scheme from 1 July 2024.

Other providers not currently registered, including family violence, sexual assault and homelessness support services and new social service providers, will need to apply to the regulator to be

² Victorian Parliamentary Debates, Legislative Assembly, 4 August 2021, page 2,658.

³ Although a renewal fee will not be charged under the new scheme, the Act allows for the option of charging an annual fee, which will further be considered subsequently.

registered under the new scheme. It will be an offence to provide prescribed social services, unless registered.

Chapter 8 outlines the proposed limited circumstances in which certain providers will be able to continue to operate while the regulator is determining their applications, helping to ensure there is no reduction in access to services in the initial stages of the new scheme.

Service requirements

The Act sets out the six Standards that will apply to registered social service providers (refer to Figure 1). The Standards are designed to reflect the key regulatory objectives for the scheme – to ensure safe service delivery and protect the rights of service users.

The Standards work together with service requirements and outcomes prescribed in regulations, (noting that a registered service provider that meets the service requirements for each Standard is taken to have met that Standard). Currently, most services that will be within the scope of the scheme are subject to the Human Services Standards – these are services funded or provided by the department. Supported residential services are subject to the Accommodation and Personal Support Standards, which are more detailed than the Human Services Standards. Many disability services funded by the Transport Accident Commission and WorkSafe are not subject to the Human Services Standards.

The Social Services Standards will replace the Human Services Standards for all service providers within the scope of the scheme and will also replace the Accommodation and Personal Support Standards for supported residential services.

Figure 1: Social Services Standards under the Social Services Regulation Act

Standard	Description
Safe service delivery	Services are safely delivered based on assessed needs
Service user agency and dignity	Social services are person-centred and they respect and uphold service user rights and agency
Safe service environment	Services are provided in a safe, secure and fit-for-purpose environment
Feedback and complaints	Service users are supported to provide feedback, complaints or concerns about service safety
Accountable organisational governance	Effective governance and organisational systems support safe delivery of social services
Safe workforce	Social services are delivered by a workforce that has knowledge, capability and support to deliver safe services with care and skill

Regulation of out-of-home care workers and carers

The Act establishes a new Worker and Carer Exclusion Scheme, replacing the Victorian Carer Register and the Suitability Panel under the Children, Youth and Families Act. Similar to the Victorian Carer Register and the Suitability Panel, the Worker and Carer Exclusion Scheme is designed to prevent those individuals found to present an unacceptable risk to children from working or providing care in the out-of-home care system.

The Worker and Carer Exclusion Scheme is intended to focus on workers and carers in high-risk sectors where risks cannot be adequately mitigated through service provider regulation alone. The

Worker and Carer Exclusion Scheme is intended to mirror the scope of the Victorian Carer Register, applying to the following categories of workers:

- foster carers
- those engaged by an out-of-home care service as a carer for children placed with an out-of-home care service
- those engaged to provide services to children at an out-of-home care residential facility managed by an out-of-home care service including, for example, secure welfare services.

Kinship care, lead tenant care, permanent care and adoptive care are not proposed to be within the scope of the Worker and Carer Exclusion Scheme.

Section 52 of the Act sets out conduct that may lead to exclusion. In addition, section 52(d) enables additional conduct that could lead to exclusion to be prescribed in regulations. A worker or carer can only be excluded where they have been found to have engaged in the conduct set out in section 52 of the Act or prescribed in regulations. The regulations prescribe the various types of ‘reportable conduct’ under the *Child, Wellbeing and Safety Act 2005* (refer to **chapter 10** for further detail) as conduct that can lead to an out-of-home care worker or carer being excluded.

Assessment of options – methodology

The Regulatory Impact Statement process aims to ensure proposed regulations are well-targeted, effective and appropriate, and impose the lowest possible burden on providers and the community. This is achieved by comparing options for each proposal to see which has the highest net benefit. Ideally, where there is data available, this would be done using a quantitative cost-benefit analysis.

The scheme does not commence until 1 July 2024, and the regulator is not expected to be appointed until the second half of 2023. As such, the details on how the proposed regulations will be operationalised and the regulatory approach to be adopted by the regulator are yet to be finalised. Stakeholders therefore were only able to provide limited quantitative information about the likely impacts the reforms may have. As a result, the impact assessment adopts a qualitative approach to assessing the proposed regulatory options.

Given this the Regulatory Impact Statement uses a multi-criteria analysis to assess and compare the costs and benefits that arise from each reform option, rather than a cost benefit analysis. The multi-criteria analysis represents the department’s qualitative judgement about the likely relative impacts of the various options on service providers and the regulator, and the extent to which they improve safety and rights for service users.

The first step in developing the multi-criteria analysis process was defining criteria against which to assess the regulatory options, which are described in Table 1 and Table 2 – refer also to **chapter 6** and **Appendix 3**.

Assessment criteria – costs and benefits of options

The assessment criteria used to make a judgement about the relative impacts of each option (the costs and benefits) are outlined in Table 1 and Table 2.

Table 1: Assessment criteria – costs

Cost criteria	Description
Costs to service providers	Costs to service providers (including the department as a service provider) under proposed options including the cost of administrative burdens such as: <ul style="list-style-type: none"> • providing training to staff to ensure understanding of the new scheme • updating processes, systems and IT systems

Cost criteria	Description
	<ul style="list-style-type: none"> costs of compliance with requirements such as the cost of providing information associated with registration requirements, complying with the Social Services Standards and service requirements costs of undertaking additional investigations under the Worker and Carer Exclusion Scheme.
Costs to the regulator	<p>Costs to the regulator of administering, monitoring and enforcing the requirements, including processing registration applications, and compliance and enforcement activity such as providing information and advice to the sector, undertaking inspections and responding to any non-compliance by providers.</p> <p>Also costs to develop the necessary information technology system for data and case management purposes, including registration, payment of any fees, and documenting compliance and enforcement activity.</p> <p>Further costs to transition to and administer the new Worker and Carer Exclusion Scheme including, for example, costs to uplift staff capacity and capability, to undertake additional investigations, and to establish and support panels to consider a greater range of matters.</p>

Table 2: Assessment criteria – benefits

Benefit criteria	Description
Safety and rights of service users	<p>The effect of the regulatory option in ensuring safety, supporting the delivery of safe services, minimising and avoiding harm and protecting the rights of service users. For example, the standards focus on supporting:</p> <ul style="list-style-type: none"> a safe, inclusive and culturally safe service environment safe service delivery and safe workforce effective governance and monitoring enforcement responses that prevent avoidable harms to service users a strengthened focus on promoting the participation, agency and dignity of service users. <p>Enforcement responses aim to prevent avoidable harms to service users.</p> <p>There are also greater protections and reduced frequency and impact of harms to children as a result of expanded conduct leading to exclusion under the new Worker and Carer Exclusion Scheme and regulatory efficiency and effectiveness as a result of shared understanding as to conduct that could become the subject of investigation.</p>

The cost analysis focuses on direct, substantive costs to in-scope service providers and the regulator, flowing from compliance and administration. Cost impacts for service users are an important consideration in the context of the reforms, however there is very limited, if any, scope for service providers to pass on higher service costs to service users. For this reason, service user costs are not a focus of this Regulatory Impact Statement. **Chapter 8** discusses the potential impact upon benefits to service users if service providers were to exit the market because of new regulatory requirements.

The period of analysis for costs and benefits is 10 years (life of the regulations). This ensures costs can be considered both in terms of set-up and transition costs for service providers and the regulator and the ongoing costs and benefits associated with compliance and enforcement.

Use of a Reference Case

Usually, a Regulatory Impact Statement compares proposed options for regulations against a base case where regulations are not made. However, this Regulatory Impact Statement does not undertake an in-depth analysis of non-regulatory options because the Act cannot function without regulations to operationalise it, and therefore this is not a useful point of comparison.

Instead, the Regulatory Impact Statement defines a 'Reference Case' for each area of the proposed regulations for the impact assessment in **chapters 8–10**. Each Reference Case is used as a point of comparison for regulatory options. The Reference Case is based on either the minimum regulations required to operationalise the relevant provision in the scheme or, in cases where the regulatory framework would function, no regulations.

Scoring

The Regulatory Impact Statement considers the magnitude of the cost increases, cost savings and potential benefits (or impacts on benefits) of each option and the Reference Case within each reform. A score has then been allocated according to the expected size of the impacts, both beneficial and negative.

Each option is scored against the criteria above (costs – generally to service providers and the regulator, and benefits – including safety, wellbeing and rights of service users) relative to the Reference Case.

Summary of impact assessment

The impact assessment undertaken in this Regulatory Impact Statement considered feedback from social service providers and their peak bodies in its analysis. While the assessment did not include specific consultation with users of social services, the membership of the Social Services Regulation Reform Taskforce includes advocates for social service users (refer to **chapter 14** for more on the taskforce). The department also attended consultations and information sessions with Safe and Equal's expert advisory panel, with the support of taskforce members, the Victorian Disability Advisory Council and community visitors for supported residential services and disability services.

Table 3 summarises the key regulatory requirements and regulatory options that have been assessed and scored for each option based on the department's judgement about the estimated qualitative impact of benefits and costs, and the relative scores for each option.

Table 3: Summary and assessment of options

Area of reform	Regulatory options	Overview of impact analysis	Preferred option
Prescribed scope of social services	<p>N/A</p> <p>Broad policy scope set by the Victorian Government in second reading speech</p>	<p>N/A</p> <p>The policy scope of the scheme was substantially settled through statements in the second reading speech for the Bill, therefore only one option is proposed.</p>	<p><i>One option only</i></p> <p>Under this option, the following services are proposed to be prescribed in the regulations as in-scope of the Act:</p> <ul style="list-style-type: none"> • children, youth and family services and services provided by the department • disability services funded or provided by the department or funded by WorkSafe and the Transport Accident Commission • supported residential services including privately operated businesses that provide Victorians with accommodation and support with everyday activities • family violence services funded or provided by the department • sexual assault services funded or provided by the department • homelessness support services funded or provided by the department.
Registration requirements	<p>Reference Case</p> <p>Minimum prescribed requirements:</p> <ul style="list-style-type: none"> • name of service provider • address of service provider • contact person. <p>Option A</p> <p>Prescribe more extensive registration requirements and</p>	<p>The impact assessment for the proposed registration requirements is set out in chapter 8.</p> <p>More stringent registration requirements as proposed in Option A, provides greater safeguards for protecting service users at the outset of service delivery. The requirements in Option A will help ensure services are delivered by providers and personnel who are suitably qualified and at</p>	<p>Option A</p> <p>Registration requirements relate to the:</p> <ul style="list-style-type: none"> • suitability of the provider and its key personnel to operate the social service • qualifications, skills or experience of the provider and key personnel of the service • suitability of the arrangements in place to operate the service

Area of reform	Regulatory options	Overview of impact analysis	Preferred option
	<p>considerations based on multiple suitability requirements.</p> <p>Weighted score: +0.75</p> <p>Option B</p> <p>Registration requirements based on a narrower assessment of the suitability of the provider and key personnel.</p> <p>Weighted score: +0.4</p>	<p>premises that are safe and appropriate. This option supports the objectives of the scheme, to minimise risks of avoidable harm caused by abuse and neglect in connection with the delivery of social services. The additional benefits of Option A (relative to Option B and the Reference Case) outweigh the additional costs on the regulator and providers.</p>	<ul style="list-style-type: none"> • suitability of the premises for the safe provision of services.
<p>Service requirements and outcomes</p>	<p>Reference Case</p> <p>No service requirements or outcomes are prescribed.</p> <p>Option A</p> <p>Prescribe the same service requirements and outcomes for all in-scope services.</p> <p>Weighted score: +3.15</p> <p>Option B</p> <p>Prescribe service requirements and outcomes that are tailored to each social services sector.</p> <p>Weighted score: +2</p>	<p>The impact assessment for the proposed service requirements and outcomes is set out in chapter 9.</p> <p>Prescribing the same service requirements for all social services as proposed in Option A consolidates the Standards into achievable, tangible and specified actions for service providers. It enables the regulator to oversee a more efficient, streamlined and clear regulatory framework, which is less costly to regulate than other options.</p> <p>For providers that operate across multiple service types, a single set of requirements across all services is less costly to comply with than requirements tailored to each sector, which would require different policies, procedures, processes and systems across service types.</p> <p>It also results in better safety outcomes for service users. Having different service requirements by sector, as in Option B, could be confusing and complex for</p>	<p>Option A</p> <p>Prescribe the same service requirements and outcomes for all in-scope services.</p> <p>The matters covered in the proposed service requirements for each Standard are:</p> <ul style="list-style-type: none"> • for the Standard on safe service delivery: service user safety, needs assessments and service planning, health and wellbeing, cultural safety and inclusion, and Aboriginal cultural safety and inclusion • for the Standard on service user dignity and agency: dignity and respect, clear and accessible information, service user rights and responsibilities, service user inclusion and participation, informed consent, connections to culture, family and community, advocacy and support • for the Standard on safe service environment: safe, secure and fit-for-purpose premises, facilities and equipment, personal and private property, natural light, ventilation, heating and cooling, emergency management planning

Area of reform	Regulatory options	Overview of impact analysis	Preferred option
		<p>service users who access multiple services, undermining their ability to advocate for themselves and their rights.</p> <p>The costs to service providers and the regulator of Option A and Option B are lower than the Reference Case. Under the Reference Case, providers are required to comply with the standards without corresponding service requirements. As a result, it is not clear what actions service providers need to take to comply with the Standards. This may lead to non-compliance and responses from the regulator, imposing costs on providers and the regulator.</p> <p>The costs to service providers and the regulator of Option A are lower than Option B and lower than the Reference Case.</p>	<ul style="list-style-type: none"> • for the Standard on feedback, complaints systems and processes: response to feedback, complaints and concerns, dispute management • for the Standard on accountable organisational governance: accountable governance and leadership, safe and inclusive practice culture, incident and adverse event reporting, outsourced services • for the Standard on safe workforce: workforce recruitment, training, performance and conduct, planning.
<p>Requirements in relation to the Worker and Carer Exclusion Scheme</p>	<p>Reference Case</p> <p>No additional conduct would be prescribed.</p> <p>A worker or carer could be excluded from working in the out-of-home care sector where they are found to have engaged in the following conduct, as set out in the Act:</p> <ul style="list-style-type: none"> • conduct that causes or is reasonably likely to cause serious harm to a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker 	<p>The impact assessment for prescribing additional conduct under the Worker and Carer Exclusion Scheme is set out in chapter 10.</p> <p>Prescribing the various types of ‘reportable conduct’ as additional conduct that could lead to a worker or carer being excluded from working in the out-of-home care sector, as proposed under Option A, will deliver greater benefits to service users compared with Option B and the Reference Case. These benefits include increased protections for children in the out-of-home care sector, which will likely result in a reduction in the frequency and impact of harms to children. The increased</p>	<p>Option A</p> <p>This option prescribes the various types of ‘reportable conduct’, as defined under the Child Wellbeing and Safety Act, as additional conduct that could lead to a person being excluded from providing out-of-home care services including:</p> <ul style="list-style-type: none"> • sexual offences committed against, with or in the presence of a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user, whether or not a criminal proceeding has commenced or concluded • sexual misconduct and physical violence committed against, with or in the presence of a Worker and Carer Exclusion Scheme service

Area of reform	Regulatory options	Overview of impact analysis	Preferred option
	<p>and Carer Exclusion Scheme service user</p> <ul style="list-style-type: none"> • persistent or repeated conduct that results in harm to a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user. <p>Option A Prescribe the various types of 'reportable conduct', as defined under the Child Wellbeing and Safety Act, as additional conduct that could lead to a person being excluded from providing out-of-home care services. Weighted score: +1.35</p> <p>Option B Prescribe some, but not all, reportable conduct, as additional conduct that could lead to a person being excluded from providing out-of-home care services. Weighted score: +0.6</p>	<p>benefits are particularly important given the vulnerabilities experienced by service users in the out-of-home care sector.</p> <p>Option A prescribes a broader range of conduct than Option B and the Reference Case. As a result, the regulator will be required to undertake more investigations and to establish and support more panels assessing conduct. As a result, the costs to providers and the regulator of Option A are greater than for Option B and the Reference Case.</p> <p>However, the benefits to service users of Option A are greater than for Option B and the Reference Case. These higher benefits outweigh the higher costs of Option A.</p>	<p>user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user</p> <ul style="list-style-type: none"> • any behaviour that causes significant emotional or psychological harm to a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user • significant neglect of a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user.

Social service provider impact and competition assessment

The regulatory changes introduced by the Act and the proposed regulations are expected to have varying impacts on service providers, noting that all service providers will be impacted because of the need to adjust systems, policies and procedures to transition to the new scheme. While it is acknowledged that providers will experience some cost to transition to the new scheme, it is expected that the burden for complying with the new Social Services Standards and proposed service requirements will be minimal for many providers but potentially substantial for those that do not have the systems and processes in place currently to ensure service user safety and protection of rights.

Some stakeholders, particularly organisations registered with the National Disability Insurance Scheme providing services funded by the Transport Accident Commission, suggested the regulations would have a disproportionate impact on providers that only deliver services to a small number of clients. For example, there are approximately 300 Transport Accident Commission and WorkSafe disability providers. Approximately 84 per cent of Transport Accident Commission attendant care providers have ten or less clients. Approximately 60 per cent of WorkSafe providers support less than five clients, with the average number of clients per provider being three.⁴

Stakeholders raised concerns that the increase in costs associated with the proposed new regulations could result in some providers exiting the sector, which could impact on service user choice and access to services.

Approximately 380 other social service providers – such as disability service providers registered under the Disability Act, children, youth and family services and supported residential services – will all have their registration automatically transferred to the new scheme, meaning there will be no upfront or ongoing compliance burden for this group in relation to registration requirements.

However, a large cohort (approximately 55 per cent) of social service providers that will be within the scope of the new scheme are not currently required to register with the Human Services Regulator. This is most homelessness support services, family violence services, sexual assault services, department-delivered services such as child protection services, and some Transport Accident Commission and WorkSafe funded disability services.

Some of this compliance burden will be reduced for most providers given providers will not be required to undertake three-yearly accreditation via independent review body audits from 1 January 2024 (refer to **chapter 9** for further detail).

In addition, the Act includes a number of provisions aimed at reducing the regulatory burden for registered providers. While it will be a matter for the regulator to determine how the available powers will be used, these provisions may ease the burden of some of the registration, compliance and reporting requirements where this makes sense to do so.

In the main, the new Social Services Standards and proposed service requirements broadly align with the existing Human Services Standards. As a result, it is expected that the cost impact of transitioning to the new scheme, and compliance burden will be modest for most providers that are already subject to the Human Services Standards.

Finally, in relation to the Worker and Carer Exclusion Scheme, the inclusion of a broader range of conduct in the proposed regulations could result in more workers being excluded from the out-of-home care sector; however, this change is expected to be marginal.

⁴ Note that data relating to the Transport Accident Commission (TAC) and Victorian Workcover Authority (WorkSafe) is accurate from a point in time in August/September 2022.

Impact on service users

The objectives of the Act and the regulations are to:

- protect the rights of service users
- minimise risks of harms caused by abuse and neglect in connection with the delivery of social services
- promote and support the delivery of safe and effective social services
- provide confidence to service users and the community in the safety and quality of social services.

The impact of the regulations on providers and the sector must be balanced against the impact of and greater protections that the Act and the regulations provide to service users. For example, the Standards and corresponding service requirements have a key focus on safe service delivery in a broad sense, including concepts of cultural safety and inclusion, Aboriginal cultural safety and inclusion, and psychological and emotional safety as well as concepts of avoiding physical harm such as abuse, neglect and exploitation. They also focus on service user agency, dignity, respect, and human rights and promote a safe service environment supporting service user safety, health and wellbeing.

Similarly, the key elements of the registration requirements go directly to assessing the suitability of the provider and its key personnel, the suitability of premises and qualifications and skills of staff, for the purpose of promoting and ensuring safe services are provided to service users.

In relation to the Worker and Carer Exclusion Scheme, additional conduct is proposed to be prescribed in the regulations that can result in a worker or carer being excluded. This includes enabling single incidents, incidents of significant neglect or behaviour that causes significant emotional or psychological harm to children and young people in out-of-home care to be grounds for excluding a worker or carer in the out-of-home care sector.

Overall, the analysis in the Regulatory Impact Statement indicates that the benefits the proposed new regulatory scheme will have on minimising and avoiding harms for social service users, and on promoting and increasing the protections for service users in the out-of-home care sector, will outweigh the cost impacts on providers for compliance.

Implementation of proposed regulations and evaluation strategy

Overall implementation approach

The regulator will be responsible for implementing the proposed regulations. Given the scheme will not be operational until 1 July 2024, the regulator has not yet been established and the Social Services Regulator who will head the regulatory body has not yet been appointed. To have a Social Services Regulator appointed so far in advance of the scheme commencing would not be cost-effective.

It is expected that the new regulator will be appointed in the second half of 2023. This will help support providers to transition to the new scheme, allowing the regulator to:

- establish the necessary staffing and infrastructure to operate effectively – this includes transitioning existing staff from the Human Services Regulator to the new regulator.
- develop its compliance and enforcement approach
- develop its operational policies and procedures
- develop guidelines and compliance codes under the Act
- engage and communicate with the social services sector in relation to the new requirements
- develop key administrative processes and forms (for example, in relation to registration)
- develop guidance for providers about how to comply with the Act.

From scheme commencement, the regulator will implement the proposed regulations and the regulatory scheme overall, having regard to the guiding principles outlined in the Act. Refer to **chapter 12** for further detail.

Section 135 of the Act includes an offence for providing a social service without being registered. Whilst social service providers who are currently registered with the Human Services Regulator will have their registration automatically transferred to the new scheme, other existing social service providers (and new providers) will need to register once the scheme commences. Transitional regulations, being developed separately, provide a period of time where existing service providers, that are not currently required to be registered, will not be subject to the offence in section 135 while the Regulator determines the application. The transitional regulations recognise that there will be a period where some existing providers transition into the new scheme. They aim to enable continuity of service provision to social service users where an organisation is currently offering services but is not required to register.

Evaluation and reviews

The Act provides that the minister must conduct a review of the operation of the Act in the fourth year of its operation. That is, the minister will conduct a review of the Act in 2028 assessing the operation of the Act from mid-2024 to mid-2027 (the first three years). This is expected to include consideration of the operation of the regulations. The scope of the review and the evaluation strategy will be determined by the Victorian Government before the review begins.

The *Victorian guide to regulation* notes that mid-term evaluations (within five years of regulations commencing) are generally required where the regulations are high impact or have particularly uncertain impacts. As the 2028 review of the Act would consider the regulations, it would likely acquit the mid-term evaluation requirement. Refer to **chapter 13** for further detail.

Public consultation

The Victorian Government invites feedback on the Regulatory Impact Statement and the proposed regulations.

A copy of the Regulatory Impact Statement and proposed regulations is available to view, download or print by [visiting the Engage Victoria website](https://engage.vic.gov.au/regulatory-impact-statement-and-draft-regulations-for-social-services) <https://engage.vic.gov.au/regulatory-impact-statement-and-draft-regulations-for-social-services>. A copy of the Regulatory Impact Statement and proposed regulations is available to view, download or print by [visiting the Engage Victoria website](https://engage.vic.gov.au/regulatory-impact-statement-and-draft-regulations-for-social-services) <https://engage.vic.gov.au/regulatory-impact-statement-and-draft-regulations-for-social-services>.

A hardcopy of the Regulatory Impact Statement is also available to view. Please telephone 0429 683 535 to arrange access to the hardcopy.

Submitting comments and/or engaging in the consultation process is through Engage Victoria.

All comments can be submitted at:

- [Engage Victoria website](https://engage.vic.gov.au/regulatory-impact-statement-and-draft-regulations-for-social-services) <https://engage.vic.gov.au/regulatory-impact-statement-and-draft-regulations-for-social-services>.

If you are experiencing issues submitting your comments through Engage Victoria, you can [email the Social Services Regulation Reform team](mailto:regulationreform@dffh.vic.gov.au) <regulationreform@dffh.vic.gov.au>.

The public consultation period closes at midnight 16 July 2023.

Consolidated list of stakeholder questions

Below is a list of questions that can be found throughout the Regulatory Impact Statement. Responses to these questions can be submitted via the [Engage Victoria website](https://engage.vic.gov.au/regulatory-impact-statement-and-draft-regulations-for-social-services) as above – <https://engage.vic.gov.au/regulatory-impact-statement-and-draft-regulations-for-social-services>.

Number	Question	Chapter
1.	Do you consider any of the regulations that are not analysed in this Regulatory Impact Statement (as referenced directly above and in Appendix 1) are likely to impose a significant additional burden? If so, please outline any options you consider might be appropriate to reduce such a burden.	5. Options identification
2A.	Do you have any comments regarding the impact of notification requirements arising from the regulations (relating to prescribed criminal convictions, prescribed timeframes for notifying the regulator about certain things, and how key personnel are defined)?	5. Options identification
2B.	Do you have any suggestion regarding how the regulations could be refined to increase the benefits, or reduce the costs, associated with these requirements?	5. Options identification
3.	Is the scope of services to be regulated under the scheme (and those excluded), as outlined in Appendix 2 and the draft regulations, clear? If not, please provide specific examples of services where you consider the coverage is unclear.	7. Scope of services

Number	Question	Chapter
4A.	Do you consider that any of the activities undertaken by Family Safety Victoria in The Orange Door fall within the scope of the prescribed services in the draft regulations?	7. Scope of services
4B.	If yes, please indicate which services you consider would fall within the scope of the draft regulations, and which service types these services fall within. What do you consider is the role of Family Safety Victoria in relation to each of these services?	7. Scope of services
5.	Do you agree that the description provided is an accurate description of the costs that can be expected to be incurred as a result of the proposed registration requirements? Please provide detail in relation to any additional costs not included in the description provided.	8. Registration requirements
6A.	Although it will not be a requirement under the new regulatory framework, do you intend to continue to undertake an accreditation process once the new scheme commences?	8. Registration requirements
6B.	What do you consider are the annual costs from the requirement for three-yearly accreditation and mid-cycle reviews? What do you estimate are the hours and the main components of these costs, and what dollar value would you attribute to each, per year? (such as staff time, documentation requirements, cost of the audit) Please indicate the level of funding you receive from the department: <ul style="list-style-type: none"> • \$0–\$100,000 • \$100,000–\$1,000,000 • \$1–5 million • \$5–10 million • \$10–50 million • > \$50 million 	8. Registration requirements
7A.	Do you agree that prescribing more extensive registration criteria at the outset has the potential to lower future costs associated with ongoing compliance? Please provide details for your reasons.	8. Registration requirements
7B.	How do you think that registration costs under the scheme might impact the sector?	8. Registration requirements
7C.	Do you consider that the administrative and other costs of registration could contribute to providers leaving the sector or changing the services providers offer? Please provide detail to explain your views, including which social services this may relate to and why this may occur.	8. Registration requirements
8.	Do you agree these are the main benefits associated with registration requirements? If you consider there are different or additional benefits, please provide further detail.	8. Registration requirements
9.	Do you agree that Option A provides greater benefits for service users than the Reference Case and Option B? Please provide further detail to support your answer.	8. Registration requirements

Number	Question	Chapter
10A.	Are the service requirements sufficiently clear? Do you have suggestions to improve their clarity?	9. Service requirements and outcomes
10B.	Do you consider there are any gaps in the proposed service requirements as they relate to the Standards?	9. Service requirements and outcomes
11A.	Do you consider, broadly, that these categories accurately reflect the costs associated with implementing the service requirements? Are there additional compliance costs that need to be considered?	9. Service requirements and outcomes
11B.	Do you consider that you will be able to update and upgrade existing systems, policies and procedures to comply with the service requirements, or will you need to develop new systems, policies and procedures? Please provide further detail to support your response.	9. Service requirements and outcomes
12A.	Are you a provider of disability services that offers services to a small number of Transport Accident Commission and WorkSafe clients?	9. Service requirements and outcomes
12B.	Are the service requirements likely to affect your decision making about offering these services in future, to Transport Accident Commission or WorkSafe clients? Please provide further detail if your answer is yes.	9. Service requirements and outcomes
13.	Do you agree these are the main benefits associated with implementing service requirements? If you consider there are different or additional benefits, please provide further detail.	9. Service requirements and outcomes
14.	Do you agree that Option A provides greater benefits for service users than the Reference Case and Option B? Please provide further detail to support your answer.	9. Service requirements and outcomes
15.	Do you think these are the main costs associated with additional conduct that may lead to a worker being excluded? If you consider there are additional costs, please provide further detail.	10. Worker and Carer Exclusion Scheme
16.	Could the additional proposed conduct for excluding workers in the out-home-care sector result in cost savings for providers by shifting the onus to the regulator to exclude the person from providing out-of-home care services, as opposed to the provider being required to determine a response to the workers' conduct?	10. Worker and Carer Exclusion Scheme
17.	Do you agree these are the main benefits associated with prescribing additional conduct that may lead to a worker being excluded? If you consider there are different or additional benefits, please provide further detail.	10. Worker and Carer Exclusion Scheme
18.	Do you agree that Option A provides greater benefits for service users than the Reference Case and Option B? Please provide further detail to support your answer	10. Worker and Carer Exclusion Scheme

1. Introduction

Social service providers play a vital role in enhancing the wellbeing of Victorians.

Social services support a range of cohorts in the Victorian community who may be experiencing vulnerability, including children, youth and families, children in out-of-home care, people with disability, people experiencing or at risk of family violence or sexual assault, people experiencing or at risk of homelessness, and people accessing supported residential services.

As a community, Victorians expect that providers of these services will deliver them in a manner that is safe, protecting service users from avoidable harm, and supporting service users' rights, dignity and agency. However, current regulation is fragmented and based on separate schemes that were developed in isolation from each other more than a decade ago. Some social services such as family violence, sexual assault and homelessness support services rely on funding agreements to establish quality and safety benchmarks. Though these providers are required to be accredited if they are funded by the Department of Families, Fairness and Housing, they are not currently subject to a formal regulatory framework. In addition, current regulatory arrangements are not supported by a comprehensive suite of regulatory tools that enables the regulator to respond to risk in a timely, flexible and proportionate way.

In September 2021 the Victorian Parliament passed the *Social Services Regulation Act 2021* (the Act). The Act introduces a new regulatory framework to address regulatory gaps and failings that have contributed to avoidable harm for social services users. An overview of the key elements of the new framework is set out in **chapter 2**.

A number of critical regulations are required to operationalise the new scheme, including in relation to:

- the scope of services required to comply with the scheme
- requirements providers must meet to be registered
- matters providers are required to notify the regulator about
- the service requirements that underpin the six Social Services Standards (Standards) that registered social service providers must comply with.

The *Subordinate Legislation Act 1994* requires a Regulatory Impact Statement to be prepared for any proposed statutory rule that imposes a significant economic or social burden on a sector of the public, including any proposed regulations. In accordance with requirements under the Subordinate Legislation Act, this Regulatory Impact Statement assesses the costs and benefits of proposed regulations for the social services regulatory scheme.

The Subordinate Legislation Act also requires the responsible minister to invite public comments or submissions in relation to the draft regulations and the Regulatory Impact Statement for at least 28 days. Initial consultation on the proposed regulatory options assessed in this Regulatory Impact Statement has occurred (refer to **chapter 14**). Before regulations are made, the Subordinate Legislation Act requires the steps illustrated at to be undertaken.

Figure 2: Making new regulations

1	2	3	4	5
Consultation with ministers whose area of responsibility may be affected by the proposed Regulations	Advertising and consultation with the public and sectors that may experience burden via the proposed Regulations	Consideration of all submissions on the proposed Regulations	Final decision – Governor in Council on recommendation of minister – on whether to make Regulations as proposed	Publication of decision

The purpose of the Regulatory Impact Statement process is to ensure:

- regulation is only implemented when there is a justified need
- only the most efficient forms of regulation are adopted
- there is an adequate level of public consultation in developing the proposed regulatory measures.

This Regulatory Impact Statement aims to answer the following key questions:

- Why is the government considering action? (problem analysis)
- What outcomes is the government aiming to achieve? (objectives for action)
- What are the possible different courses of action that could be taken to achieve those outcomes? (identify feasible options)
- What are the expected impacts (benefits and costs) of the options and what is the preferred option? (impact analysis)
- What are the characteristics of the preferred option, including impacts on providers and competition impacts? (summarise the preferred option)
- How will the preferred option be put into place? (implementation plan)
- When (and how) will the government evaluate the effectiveness of the preferred option in meeting the objectives? (evaluation strategy)

The Subordinate Legislation Act also requires the responsible minister to ensure independent advice as to the adequacy of the Regulatory Impact Statement and that the assessment included in it is obtained and considered in accordance with the Victorian Government’s *Guide to regulation*. This role is undertaken by the Commissioner for Better Regulation.

Scope of the Regulatory Impact Statement

The key matters addressed in this document relate to:

- the context for social services in Victoria
- the problem the regulation is seeking to address
- the objectives of the legislation and regulations
- regulatory options for addressing the problem
- the methodology – the costs and benefits of possible regulatory options
- implementation and evaluation of the proposed regulations
- consultation undertaken to inform the Regulatory Impact Assessment and draft regulations.

2. Context

Social services in Victoria

Victorians access important social services every day. Social services play a critical role in supporting Victorians experiencing vulnerability to maximise their wellbeing and their participation in society.

The social services sector in Victoria is significant and varied, with a wide range of provider organisations delivering an equally broad range of social services.

Social services are provided to: children, youth and families; children in out-of-home care; people with disability; people experiencing family violence or sexual assault; people experiencing or at risk of homelessness; and people accessing supported residential services (refer to **Appendix 2** for further detail).

It is also important to consider the wider context in which reforms to the social services sector are occurring. This includes workforce shortages that have been exacerbated by the fatigue and extreme pressure experienced by the sector during and after the COVID-19 pandemic.

Finally, with slow economic growth, high inflation, and a fiscally constrained environment for governments at all levels, there may be increasing pressure on service provider operational budgets. It is important to be aware of this wider context, which may place added pressure on service providers to meet the demand for social services support.

Social service providers

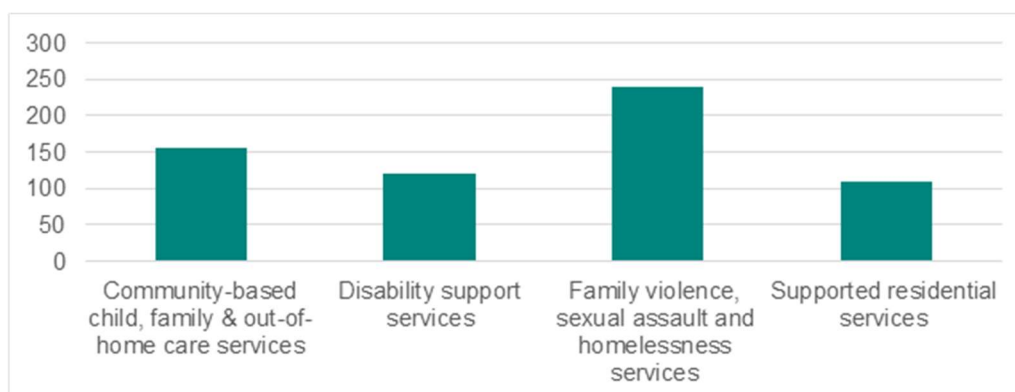
Funding from government, and specifically from the department, makes up a significant proportion, and in some cases, represents the sole source of funding social service providers receive.

There are approximately 700 social service providers that will be within the scope of the scheme, many of whom provide two or more categories of social services. By category, there are approximately:

- 155 providers of community-based child, family and out-of-home care services
- 120 providers of disability support services
- 240 providers of family violence, sexual assault and homelessness services
- more than 100 providers of supported residential services.

This breakdown is shown in Figure 3.

Figure 3: Number of social service providers in Victoria, by category



Additionally, there are approximately 300 Transport Accident Commission and WorkSafe disability service providers, with around 50 of those already registered under the *Disability Act 2006* (meaning these 50 providers are already required to register and are subject to the Human Services Standards).⁵

Key risks arising from the use of social services

Many service users have a limited ability to protect themselves from harms, or to raise alarms when harms occur – for example, due to language or cultural barriers, cognitive or physical disability, complex communication needs, or because they are in a time of crisis, such as experiencing homelessness or family violence. Moreover, service users may have limited choice about if, and when, they receive services and from which provider. Some service users may also have reduced capacity to make decisions about their care or require additional support to access care or voice their concerns about their experiences.

The risk of harm to service users in the context of social service delivery is real, and government plays an important role in managing these risks through the service agreement management system and, in some cases, through regulation.

The department collects and publishes data about certain types of incidents occurring within child protection and family services for the purposes of monitoring the safety and quality of services it funds.

An ‘incident’ refers to any event or circumstance occurring during service delivery that has resulted in harm to a client. Incidents are categorised as either major impact incidents or non-major impact incidents having regard to the level of harm to the client. Major impact incidents are those that involve a more serious level of harm, and are reported under four categories – client death, abuse, behaviour or other incident type.⁶

Providers must report incidents to the department that occur during service delivery and result in harm to a client and must follow specific processes in responding to, investigating, reviewing and analysing these incidents. Providers are required to: maintain a client incident register; collect data about incidents; plan, manage and document the implementation of actions in response to the incident; and identify incident trends. This data is published each year for child protection, disability services and housing and homelessness within the department’s annual reports. See:

- [Child protection and family services: additional service delivery data 2020–21](https://www.dffh.vic.gov.au/child-protection-additional-service-delivery-data)
<https://www.dffh.vic.gov.au/child-protection-additional-service-delivery-data>
- [Disability services: additional service delivery data 2020–21](https://www.dffh.vic.gov.au/disability-services-additional-service-delivery-data-2020-21-word)
<https://www.dffh.vic.gov.au/disability-services-additional-service-delivery-data-2020-21-word>
- [Housing assistance: additional service delivery data 2020–21](https://www.dffh.vic.gov.au/housing-and-homelessness-additional-service-delivery-data-2020-21-word)
<https://www.dffh.vic.gov.au/housing-and-homelessness-additional-service-delivery-data-2020-21-word>.

The recent Disability Royal Commission included a focus on supported residential services and highlighted the poor standard of accommodation and support services in some services.

⁵ Note that data relating to the Transport Accident Commission and WorkSafe is accurate from a point in time in August/September 2022.

⁶ [Client incident management guide, 2020](https://providers.dffh.vic.gov.au/client-incident-management-guide-cims-word) <https://providers.dffh.vic.gov.au/client-incident-management-guide-cims-word>

2. Context

It has focused on the need to ensure appropriate safeguards for vulnerable residents in accommodation services, highlighting concerns around:

- the poor standard of accommodation and support provided to some people living in supported residential services
- the appropriateness and adequacy of regulatory responses to incidents of violence, abuse, neglect and exploitation of people living in supported residential services.

A robust regulatory framework helps to mitigate key risks and harms arising in delivering social services such as risks of:

- substandard or inappropriate care or services (for example, an unsafe physical environment, failure or delay in providing necessary services or referral)
- neglect, fraud or abuse by a provider's staff
- sudden collapse of a provider leading to gaps in care
- inappropriate clinical care
- culturally inappropriate or unsafe care
- service user(s) not understanding or providing informed consent (where they have the legal capacity to do so) to the provision of services
- service users not being supported to participate in the community and/or develop/maintain connections with family or friends
- service users not being supported to make complaints, access advocacy or other support services
- service users' rights being unreasonably infringed during the provision of services including rights to dignity and privacy, and freedom from discrimination.

Further qualitative information on sector-specific risks can be found in **Appendix 4**.

Social services regulation

Social service regulation seeks to protect service users from harm and mitigate service users' risk of neglect and abuse. Currently in Victoria, quality and safety of social services is monitored through a combination of legislation, compliance monitoring and performance reporting through the department's service agreement management system.

Current regulatory framework

Regulation of social services in Victoria is fragmented across various legislative schemes and frameworks, meaning not all social services are consistently regulated. For example, for children, youth and family services, disability services and supported residential services, there are three separate regulatory schemes set out in legislation that have different:

- reporting requirements
- sets of standards that services providers are subject to
- registration requirements
- compliance and enforcement tools available to the regulator.

The Human Services Regulator has no legislative powers to monitor and enforce compliance for some social services such as family violence, sexual assault, homelessness support and department-delivered services such as child protection services.

The Human Services Regulator currently has no oversight of the majority of disability service providers funded by the Transport Accident Commission and WorkSafe. Attendant care providers funded by the Transport Accident Commission and WorkSafe not subject to the Human Services

Standards are predominantly regulated by the National Disability Insurance Scheme. Although these providers are subject to a formal regulatory framework, a regulatory gap exists at a client level for non-National Disability Insurance Scheme participants. This means there is limited ability to address matters of safety and quality for Transport Accident Commission and WorkSafe clients that access these services. A separate cohort of disability service providers funded by the Transport Accident Commission and WorkSafe to deliver activities such as Community Access and Case Management are not regulated under the Human Services Regulator or National Disability Insurance Scheme.

Social service providers may also be subject to other regulatory schemes and, in some cases, are responsible to a separate complaints body or bodies (refer to **Appendix 5**).

The key elements of the current regulatory framework for social services are summarised in **Appendix 6**.

Services that are funded or delivered by the department are subject to the Human Services Standards.

In relation to regulation of out-of-home care workers and carers, some workers and carers in the out-of-home care sector are currently required to be registered on the Victorian Carer Register and their conduct can be investigated by the Suitability Panel. Foster carers, people engaged or employed by an out-of-home care service as a carer for a child placed in out-of-home care, and people employed or engaged to provide services to children in a residential facility managed by an out-of-home care facility, including secure welfare services, are within the scope. Kinship carers, lead tenant carers, permanent carers and those who have adopted children are not required to register on the carers register and are not subject to the current requirements.

The type of conduct that that can currently be considered by the Suitability Panel relates to allegations of physical or sexual abuse.

Social Services Regulation Act

The Act was passed in September 2021 and introduces a strengthened regulatory framework to address the regulatory gaps and failings that have contributed to avoidable harm for some social services users.

The Act establishes:

- a new independent regulator, the Social Services Regulator (the regulator)
- mandatory registration for providers of social services that are within the scope of the new scheme, with ongoing registration
- a comprehensive and graduated set of enforcement tools to support early intervention and enable the regulator to respond to risk proportionately and in a timely way
- a set of social service standards that all registered social service providers must meet. The Act provides for six Social Services Standards (the Standards). Complementing these standards are prescribed outcomes and prescribed service requirements that correspond to each of the six Standards
- a Worker and Carer Exclusion Scheme regulating workers and carers in the out-of-home care sector.

The Act gives the regulator powers to monitor individual providers and enforce compliance. The regulator has powers of entry, may issue notices to produce documents or information, and there are various information gathering powers available to authorised officers, either upon entry to a premises or via a notice. The regulator will have a comprehensive set of enforcement tools, including the ability to issue improvement notices, prohibition notices and infringement notices, and

2. Context

in some circumstances, issue enforceable undertakings and public warning notices, as well as suspending, placing conditions on or cancelling a registration, or prosecution.

The regulator will use a risk-based approach, focusing its attention where the likelihood and consequences of harm are greatest. This reduces compliance burden by ensuring regulatory responses are proportionate to regulatory risk.

The Act enables more efficient and effective intelligence gathering by the regulator to inform its regulatory approach. The ability to share information with a broader range of entities allows for greater collaboration between regulators including, for example, undertaking joint investigations with co-regulators. This information is critical to enable the regulator and other statutory bodies with sector oversight responsibilities to identify risks and respond to incidents in a timely manner.

The available suite of tools enables the regulator to better manage risks in an ongoing way, and gives the ability to capture targeted, relevant and timely information. The regulator's new powers, tools and access to data sources eliminates the regulator's reliance on external bodies to provide point-of-time attestation centred on the existing Human Services Standards. It replaces this with a more continuous, risk-based and intelligence-led approach to monitoring.

3. Problem definition

Overarching problems of the existing legislative framework

Social service regulation aims to protect people who use those services from abuse and harm.

The Social Services Regulation Act was drafted and passed with a view to addressing critical issues in relation to the current regulation of social services including:

- the limited scope of services that are regulated, inconsistencies and fragmentation across the legislative framework, creating barriers to effective risk management by the current regulator
- the limitations of the Victorian Carer Register including more limited conduct that could lead to a worker or carer from being disqualified from working with children in the out-of-home care sector relative to the new scheme
- insufficient powers for the regulator to act in a timely and proportionate way when it identified regulatory risks or breaches of the Act
- narrow information sharing arrangements between the regulator and other agencies, limiting the regulator's ability to receive intelligence from a broad range of parties and work collaboratively with co-regulators.

The proposed regulations are designed to operationalise the Act. Together, the Act and proposed regulations create a framework to address the above issues.

Limited scope of regulated services, inconsistencies and fragmentation – regulation of service providers

Robust legislative frameworks should enable government to provide effective risk management to mitigate the harms and risks social service users are exposed to. Currently, not all social services are subject to formal regulation, which poses challenges for effective risk management of social services.

Current barriers to effective risk management include:

- separate registration requirements and processes for different sectors across the Disability Act, the Supported Residential Services (Private Proprietors) Act and the Children, Youth and Families Act (refer to **Appendix 5**). This can cause confusion for service providers that are required to register multiple types of services across the different legislative schemes
- service providers may be subject to different standards. For example:
 - supported residential services are subject to the Accommodation and Personal Support Standards, which provide specific requirements for providers focused on an accommodation service such as specific requirements in relation to maintaining clean bedding and linen and in relation to residents' access to their own clothing. Other service providers are subject to the Human Services Standards, which are high-level outcomes-based standards that are relatively open ended rather than specific, concrete and tangible.

Some social service sectors are not required to register and are not subject to a formal regulatory framework (refer to **Appendix 5**). This means the regulator has no regulatory powers or tools to monitor and enforce matters of service user safety among these service providers, and instead must rely on funding levers to address any risks.

Only a small number of disability providers funded by the Transport Accident Commission and WorkSafe are registered under the Disability Act and subject to regulation by the Human Services Regulator (for example, approximately 50 of 300 providers funded by the Transport Accident

3. Problem definition

Commission and WorkSafe are registered under the Disability Act). Some disability services that are funded by the Transport Accident Commission and WorkSafe are registered with the National Disability Insurance Scheme and subject to regulation under that scheme but not at the client level, meaning there is limited ability to address matters of service user safety. A cohort of providers funded by the Transport Accident Commission and WorkSafe are not regulated under the Human Services Regulator or National Disability Insurance Scheme. Transport Accident Commission and WorkSafe funded services proposed to be in scope of the scheme have a similar risk profile to other disability services within scope of the social services regulatory scheme. Including these providers addresses a current regulatory gap.

Regulatory intelligence gathering is inefficient, as compliance activities are currently split across different pieces of legislation, governance structures and regulatory schemes, which means the regulator might not always be able to identify or respond to systemic risks in the most effective way (refer to **Appendix 6**).

The Act and the proposed regulations aim to provide a more robust, streamlined and comprehensive regulatory framework for social service users.

Limitations of the current Victorian Carer Register

The Victorian Carer Register currently applies to certain out-of-home care workers and carers. Initially it is intended that the scope of the Worker and Carer Exclusion Scheme will mirror the current scope of the Victorian Carer Register. Specifically, this covers:

- foster carers
- people employed or engaged by an out-of-home care residential service, including a secure welfare service, as a carer for children placed at a service
- people employed or engaged by a residential out-of-home care service to provide services to children at an out-of-home care residential facility managed by an out-of-home care service.

As is currently the case, it is not intended that kinship care, lead tenants, permanent care or adoptive care will be in scope of the Worker and Carer Exclusion Scheme.

Currently a person can be disqualified from the Victorian Carer Register if they are found to have committed physical or sexual abuse against a child in care and the person poses an unacceptable risk of harm to children. Under the new scheme a significantly broader range of conduct can be considered in determining if a worker or carer should be excluded from providing care. For example, the Act provides that persistent or repeated conduct that results in harm to a relevant service user is conduct that could lead to exclusion. Harm includes harm of a physical, sexual, emotional, psychological, financial or cultural nature.

The regulations propose to further expand the conduct that could lead to a worker or carer from being excluded from providing out-of-home care or work, to include the various types of 'reportable conduct' under Victoria's Reportable Conduct Scheme, which includes:

- sexual offences, sexual misconduct and physical violence, committed against, with or in the presence of a child
- any behaviour that causes significant emotional or psychological harm to a child
- significant neglect of a child.

Further expanding the conduct for exclusion in this way will provide greater protections for children and young people in the out-of-home care sector. For example, the draft regulations will expand the scope of conduct that could be grounds to exclude an out-of-home care worker or carer by enabling single incidents of significant neglect or behaviour that causes significant emotional or psychological harm to be investigated.

Insufficient powers to act

Under current arrangements, the regulator does not always have the ability to take comprehensive action or, in some cases, any action to address and mitigate risks of harms when systemic issues are identified.

Under the current framework for family violence, sexual assault and homelessness support services, there is no legislative requirement to register, and the requirement to comply with the Human Services Standards is a requirement of funding and service agreements. The regulator therefore does not have enforcement powers to respond where there may be instances of non-compliance with the Human Services Standards in these areas, and the department must rely on funding levers to require compliance with the Human Services Standards.

As previously noted, the regulator does not have a comprehensive, contemporary regulatory toolkit, and there are inconsistent powers across the three existing regulatory schemes for children, youth and families, supported residential services and disability service providers. For example:

- Regulatory responses such as compliance notices and infringements are available to the current regulator under the Supported Residential Services Act but not under the Disability Act or the Children, Youth and Families Act. These compliance and enforcement tools are important 'higher end' tools that can be used to effectively address non-compliance, and may be a more proportionate response in some circumstances than, for example, prosecution or suspending a registration.
- Unlike the new regulatory scheme, the regulator does not currently have regulatory tools such as prohibition notices and improvement notices to enable a proportionate response to the level of risk.

In addition to existing regulatory tools such as suspending or cancelling a registration, the new regulatory scheme also provides for more stringent regulatory responses for instances of serious non-compliance, including enforceable undertakings, public warning notices and adverse publicity orders. Taken together, these additional enforcement tools will provide the independent regulator with a comprehensive regulatory toolkit when the scheme commences on 1 July 2024.

Constraints on information sharing

The Act provides for a wide variety of reporting of information and intelligence to the regulator, including reporting of certain organisational and other matters, and incident reporting, as well as facilitating broader and more effective information sharing arrangements than is currently the case. These broader information sharing provisions can facilitate efficiencies such as joint investigations by co-regulators and allows for information sharing arrangements to be established with Victorian government bodies or entities with a role in dealing with complaints and oversight or funding or contracting with regulated social service providers.

This includes, for example, the Office of the Public Advocate, the Transport Accident Commission, the department, the WorkSafe and the Commissioner for Children and Young People. Information sharing arrangements may also be implemented with the Chief Commissioner of Police, with other law enforcement agencies and with Victorian government entities that provide education or training to registered social service providers or workers or carers subject to the Worker and Carer Exclusion Scheme.

Specific problems being addressed by the regulations

Regulations are required to operationalise many of the requirements set out in the Act. This includes:

- articulating the scope of services that will be required to comply with the proposed regulations
- setting out the requirements for registration for service providers
- specifying a set of outcomes and service requirements that service providers must comply with, and that correspond to the six Standards
- setting out additional conduct of out-of-home care workers and carers that can be investigated under the Worker and Carer Exclusion Scheme.

4. Objectives

Overarching legislative purpose and objectives

The Victorian Government provides a broad range of support to those experiencing vulnerability. This extends to ensuring all social services provided to Victorians meet minimum standards that support health and wellbeing outcomes while also mitigating the risk that service users are exposed to physical, developmental, social or emotional harm.

The proposed regulatory framework aims to create a single, streamlined framework that will be administered by a new independent regulator that reports directly to the Minister for Disability, Ageing and Carers and the Minister for Child Protection and Family Services. The key focus of the regulatory framework is to minimise the risk of avoidable harm to service users and to promote the delivery of safe services.

The proposed regulatory framework also aims to achieve the overarching goals of supporting safe service delivery and quality, promoting service user agency and dignity, supporting continuous improvement in the delivery of social services and protecting service users' rights.

The objectives of the regulator are to:

- monitor and enforce compliance with the Social Services Regulation Act and the regulations relating to the safe delivery of social services
- protect the rights of service users
- minimise risks of avoidable harm caused by abuse and neglect in connection with the delivery of services
- promote and support the delivery of safe and effective social services
- encourage a culture of continuous quality improvement in the provision of social services
- provide confidence to service users and the community in the safety and quality of social services.

Key guiding principles in the Act include that the regulator, in carrying out a function or power under the Act, must have regard to the paramount consideration of the protection of service users.

Objectives of the regulations include to:

- prescribe social services for the purposes of the Act
- prescribe requirements for registering providers of social services
- prescribe information that must be included in the register
- prescribe the service requirements for the Social Services Standards
- prescribe matters of which the regulator must be notified to the regulator
- provide for matters required for the operation of the Worker and Carer Exclusion Scheme
- prescribe infringement offences and infringement penalties for the purposes of the Act and regulations
- prescribe entities to be relevant agencies for the purposes of collecting, using or disclosing information under the Act.

5. Options identification

Proposed scope of the regulations

The proposed regulations analysed in this Regulatory Impact Statement are:

- the scope of services required to comply with the scheme
- requirements a provider must meet to be registered under the scheme
- service requirements that a provider must meet to demonstrate compliance with the new Social Services Standards
- prescribed conduct that can lead to exclusion under the Worker and Carer Exclusion Scheme.

To inform drafting of the regulations, the department has engaged with the Social Services Regulation Taskforce over the past 12 months. The taskforce comprises 11 members representing social service providers, advocates for social service users, a First Nations representative and a regulatory expert. Social service providers and peak bodies were also consulted (refer to **Appendix 3**).

Regulations can prescribe fees, including registration fees, annual fees and fees to vary or revoke a condition of registration. The assessment of regulatory options for fees will be the subject of a separate Regulatory Impact Statement. The Social Services Regulation Act also provides for specific regulations to be made for the supported residential services sector. It is intended that these regulations will be substantially re-made to be consistent with existing regulations for this sector. The draft regulations for supported residential services will be subject to a separate process.

Transitional regulations are also being developed separately (refer to **chapter 12** for further detail).

There are also regulations that do not fall within the four areas discussed in this Regulatory Impact Statement, generally of a more routine or operational nature (refer to **Appendix 1**) such as:

- prescribed timeframes within which providers must do certain things, such as provide additional information to the regulator to support an application for registration
- infringeable offences and penalties
- the services, workers and carers that the Worker and Carer Exclusion Scheme applies to.

These regulations were not considered to impose significant burden.

Question 1:

Do you consider any of the regulations that are not analysed in this Regulatory Impact Statement (as referenced directly above and in **Appendix 1**) are likely to impose a significant additional burden?

If so, please outline any options you consider might be appropriate to reduce such a burden.

Some requirements, such as the requirement for social service providers to notify the regulator about certain matters, are likely to impose some additional burden; however, most of these notification obligations arise under sections 47 and 48 of the Act, rather than the regulations. For example, section 47 provides that social service providers must notify the regulator of matters such as:

- changes to volume and type of social service provided

5. Options identification

- staffing and organisational changes that materially impact service delivery
- changes to information provided on registration.

The Act also requires the service provider to inform the regulator about certain prescribed criminal convictions of the provider, the director and other prescribed 'key personnel'. The regulations set out which convictions are notifiable and define 'key personnel'. For example, prescribed criminal convictions include any conviction for an indictable offence or for an offence which, if committed in Victoria, would be an indictable offence, and any other conviction for an offence of fraud or dishonesty punishable by imprisonment for three months or more.

'Key personnel' is defined to include:

- those who are responsible for the executive decisions of the provider or who have responsibility for planning, directing or controlling the activities of the provider
- the chief executive officer (however described) of the provider
- if the provider is the Secretary of the department, each Department of Families, Fairness and Housing executive with responsibility for administering the provision of the social service
- the day-to-day manager of a supported residential service.

The regulations also set out the maximum timeframes within which service providers must notify the regulator of matters covered in section 47 of the Act.

Section 48 requires a social service provider to notify the regulator about serious incidents that have occurred or that may pose a serious risk to service users. This includes incidents that result in or are reasonably likely to cause serious harm to a service user. The regulations will prescribe that incidents resulting in serious injury of a supported residential service user, and unexpected deaths that occur during service delivery for all registered providers, must also be notified to the regulator.

Question 2:

- A. Do you have any comments regarding the impact of notification requirements arising from the regulations (relating to prescribed criminal convictions, prescribed timeframes for notifying the regulator about certain things, and how key personnel are defined)?
- B. Do you have any suggestion regarding how the regulations could be refined to increase the benefits, or reduce the costs, associated with these requirements?

Non-regulatory options and explanation of the Reference Case

Where feasible, a Regulatory Impact Statement considers non-regulatory options. This Regulatory Impact Statement does not undertake an in-depth analysis of non-regulatory options because the Act cannot function without regulations to operationalise it.

Usually, a Regulatory Impact Statement would compare proposed options for regulations against the base case, where regulations are not made. For the purpose of this Regulatory Impact Statement, the base case would be where the Act applies, but no regulations are prescribed. As outlined above, there are many instances where the provisions of the Act cannot operate without regulations, and so the regulatory framework would not function, and the base case would not provide a useful point of comparison for regulatory options.

Instead, the Regulatory Impact Statement defines a 'Reference Case' for each area of the proposed regulations for the purposes of the impact assessment in **chapters 8 to 10**. Each Reference Case is used as a point of comparison for regulatory options. The Reference Case is based on either the minimum regulations required to operationalise the relevant provision in the scheme or, in cases where the regulatory framework would function, no regulations.

Regulatory options examined in the Regulatory Impact Statement

The options analysis set out in this Regulatory Impact Statement examines options for prescribing:

- registration requirements
- service requirements and outcomes
- requirements in relation to the Worker and Carer Exclusion Scheme.

Table 4 summarises the options analysed in the Regulatory Impact Statement.

Table 4: Summary of options analysed in the Regulatory Impact Statement by area of reform

Area of reform	Proposed regulatory options	Reference Case
<p>Prescribed scope of social services</p>	<p>No alternative option analysed.</p> <p>The Bill's second reading speech states that the scope of services focuses on service types already required to comply with standards through funding agreements. This includes:</p> <ul style="list-style-type: none"> • services provided in the community to support children and families subject to registration under the Children, Youth and Families Act, including out-of-home care but excluding child and maternal health services, schooling and early childhood education • regulatory functions that currently sit with the Disability Services Commissioner • supported residential services registered under the Supported Residential Services (Private Proprietors) Act • family violence services that are required to comply with the Human Services Standards, including case management, support and accommodation services • homelessness services that are required to comply with the Human Services Standards, including referral, support and accommodation services. <p>WorkSafe and Transport Accident Commission funded disability services are also proposed to be included.</p>	<p>N/A</p>
<p>Registration requirements</p>	<p>Option A: Prescribe more extensive registration requirements and considerations based on multiple suitability requirements</p> <p>Registration requirements relate to the:</p> <ul style="list-style-type: none"> • suitability of the provider and its key personnel to operate the social service • qualifications, skills or experience of the provider and key personnel of the service • suitability of the arrangements in place to operate the service • suitability of the premises for the safe provision of services. <p>There are also a range of matters the regulator may have regard to, detailed over the page.</p> <p>Option B: Registration requirements based on a narrower assessment of suitability of provider and key personnel</p> <p>Registration requirements only relate to the suitability of the provider and its key personnel to provide the service.</p>	<p>Minimum prescribed requirements are:</p> <ul style="list-style-type: none"> • name of service provider • address of service provider • contact person.

<p>Service requirements</p>	<p>Option A: Prescribe the same service requirements for all in-scope services Option B: Prescribe service requirements that are tailored for each social services sector</p>	<p>No service requirements are prescribed.</p>
<p>Requirements in relation to the Worker and Carer Exclusion Scheme</p>	<p>Option A: Prescribe additional conduct to the conduct specified in the Act, that can lead to exclusion under the Worker and Carer Exclusion Scheme This option prescribes the various types of ‘reportable conduct’, as defined under the <i>Child Wellbeing and Safety Act 2005</i>, as additional conduct that could lead to a person being excluded from providing out-of-home care services. The additional conduct includes:</p> <ul style="list-style-type: none"> • sexual offences committed against, with or in the presence of a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user, whether or not a criminal proceeding has commenced or concluded • sexual misconduct and physical violence, committed against, with or in the presence of a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user • any behaviour that causes significant emotional or psychological harm to a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user, or • significant neglect of a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user. <p>Option B: Prescribe a narrower definition of additional conduct to conduct specified in the Act, that can lead to exclusion under the Worker and Carer Exclusion Scheme This option picks up some reportable conduct but not:</p> <ul style="list-style-type: none"> • any behaviour that causes significant emotional or psychological harm to a child, or • significant neglect of a child. 	<p>No additional conduct prescribed (conduct is based on conduct set out in the Act).</p> <p>A worker or carer could be excluded from working in the out-of-home care sector where they are found to have engaged in the following conduct:</p> <ul style="list-style-type: none"> • conduct that causes or is reasonably likely to cause serious harm to a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a worker and carer service user, or • persistent or repeated conduct that results in harm to a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user.

6. Methodology for assessing options

The Regulatory Impact Statement process aims to ensure proposed regulations are well-targeted, effective and appropriate, and impose the lowest possible burden on businesses and the community. This analysis is undertaken by comparing alternative options (refer to **chapter 5**) for:

- prescribed registration requirements
- prescribed service requirements and outcomes
- requirements for the Worker and Carer Exclusion Scheme.

This was to determine which alternative had the highest net benefit. Ideally, where there is data available, this would be done using a quantitative cost-benefit analysis.

Data limitations and use of multi-criteria analysis

Limited data is available about the costs of introducing the proposed regulations assessed in this Regulatory Impact Statement. This is in part due to the regulatory scheme and proposed regulations being new and not yet operationalised, and the regulator not yet being established. The following details will be finalised once the regulator is established:

- how the Social Services Regulation Act will be implemented
- how the proposed regulations will be operationalised
- the regulator's compliance and enforcement approach
- the extent to which the regulator will use compliance codes and other provisions in the Act (such as exemptions from notification or registration requirements) to recognise existing, similar regulatory requirements.

As a result, detailed information on the regulator's approach to how each of the regulatory options will be implemented was not able to be provided to, and tested with, stakeholders during consultations. Additionally, historical base line data from the existing scheme is able to inform cost estimates under the new scheme to only a limited degree. Therefore, it was difficult to estimate the administrative and compliance burden associated with some proposals. The Social Services Regulation Act, however, requires the regulator to make decisions proportionate to risk and that minimise regulatory burden.⁷

The users of most service types are not expected to incur any additional financial costs under any of the options because social services within scope of the scheme are fully funded by government. Therefore, the assessment of any cost implications of the proposed regulatory options does not include a quantitative analysis of costs to service users. Where there may be a cost impact for services users, this impact has been described qualitatively.

In addition, the benefits and cost savings of the proposed regulations are difficult to quantify. This is because they relate to concepts such as safe delivery of social services, protecting the rights, dignity and agency of service users and minimising the risk of avoidable harm, which are difficult to place a dollar value on. As a result, the assessment in this Regulatory Impact Statement is qualitative in nature.

Given the limited availability of data to quantify benefits, the overall assessment of the regulations will be made using a multi-criteria analysis decision tool rather than a cost-benefit analysis, which is described below. As noted, the analysis is qualitative in nature, and the scores are estimates rather

⁷ Section 8(d) of the Act

than precise. However, the weightings given to the costs and benefits and the relative scores for costs and benefits provide transparency about the relative importance the department has placed on impacts in relation to different groups, which enables options to be ranked according to relative costs and benefits.

Assessment method

The first step in developing the multi-criteria analysis is defining assessment criteria against which to assess the regulatory options.

Assessment criteria

These criteria were drawn from the government's objectives in reforming social services regulation. The assessment criteria are outlined in Table 5 and Table 6.

Table 5: Assessment criteria – costs

Cost criteria	Description
Costs to service providers	<p>Costs to service providers (including the department as a service provider) under proposed options include the cost of administrative burdens such as:</p> <ul style="list-style-type: none"> • providing training to staff to ensure understanding of the new scheme • updating processes and systems including IT systems • costs of complying with requirements such as the cost of providing information associated with registration requirements, complying with the Social Services Standards and service requirements • costs of undertaking additional investigations under the Worker and Carer Exclusion Scheme.
Costs to the regulator	<p>Costs to the regulator of administering, monitoring and enforcing the requirements, including processing registration applications and compliance and enforcement activity such as providing information and advice to the sector, undertaking inspections and responding to any non-compliance by providers.</p> <p>Also costs to develop the necessary IT system for data and case management purposes, including registration and payment of any fees, and documenting compliance and enforcement activity.</p> <p>Further costs to transition to and administer the new Worker and Carer Exclusion Scheme including, for example, costs to uplift staff capacity and capability, to undertake additional investigations, and to establish and support panels to consider a greater range of matters.</p>

Table 6: Assessment criteria – benefits

Benefit criteria	Description
Safety and rights of service users	<p>The effect of the regulatory option in ensuring safety, supporting the delivery of safe services, minimising and avoiding harm and protecting the rights of service users. For example, the Standards focus on supporting:</p> <ul style="list-style-type: none"> • a safe, inclusive and culturally safe service environment • safe service delivery and a safe workforce • effective governance and monitoring • enforcement responses that prevent avoidable harms to service users

Benefit criteria	Description
	<ul style="list-style-type: none"> a strengthened focus on promoting the participation, agency and dignity of service users. <p>Enforcement responses aim to prevent avoidable harms to service users. There are also greater protections and reduced frequency and impact of harms to children as a result of expanded conduct leading to exclusion under the new Worker and Carer Exclusion Scheme and regulatory efficiency and effectiveness as a result of shared understanding as to conduct that could become the subject of investigation.</p>

As set out above the cost analysis focuses on the direct substantive costs flowing from compliance and administration and costs to in-scope social service providers and the regulator. Cost impacts for service users are an important consideration in the context of the reforms, however there is very limited, if any, scope for service providers to pass on any higher service costs to service users. For this reason, service user costs are not a focus of this Regulatory Impact Statement. **Chapter 8** discusses the potential impact upon benefits to services users if service providers were to exit the market as a result of new regulatory requirements.

The period of analysis for costs is 10 years, being the life of the regulations. This ensures costs can be considered both in terms of set-up and transition costs for service providers and the regulator, and ongoing costs associated with compliance and enforcement.

Finally, the delayed commencement of the Act and proposed regulations until 1 July 2024 is expected to reduce the overall transition costs for service providers on the basis that providers will have more time to understand the changes and amend processes and policies to meet the requirements of the proposed regulations.

Scoring

The Regulatory Impact Statement considers the magnitude of the cost increases, cost savings and potential benefits of each option and the Reference Case within each reform area, with a score for each of these allocated according to the expected overall impact.

Each option is scored against the criteria above relative to the Reference Case (refer to Figure 4). A score of '0' would mean that implementing the option would have no benefit or cost impact relative to the Reference Case.

Figure 4: Impact assessment scoring metric

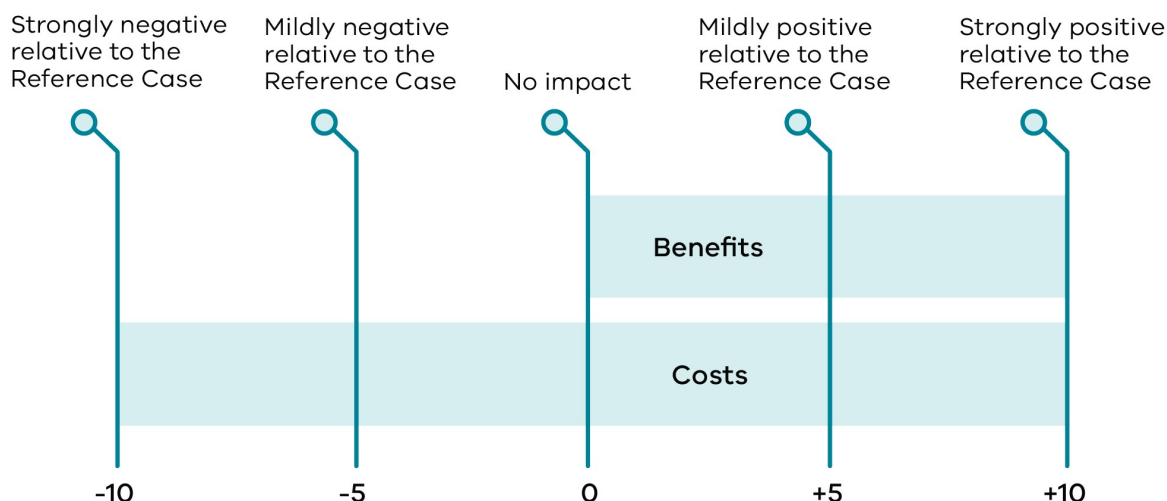


Table 7 provides an explanation of the categories used in the above scoring spectrum.

Table 7: Scoring metric definitions

Impact	Definition
Strongly negative impact	Option will result in considerably higher costs relative to the Reference Case.
Mild negative impact	Option will result in moderate costs relative to the Reference Case.
No impact	Option will create neither costs nor benefits relative to the Reference Case.
Mild positive impact	Option will result in a moderate positive benefit or will result in moderate cost savings relative to the Reference Case.
Strongly positive impact	Option will result in a significant positive benefit or will result in considerable cost savings relative to the Reference Case

The impact analysis assesses two options against the Reference Case for each key area of reforms, except for the prescribed scope of social services, which does not include a Reference Case, as previously outlined.

Weightings

Costs and benefits have been weighted equally (50 per cent). This approach avoids the multi-criteria analysis having a bias towards or against making regulatory changes. However, because there are two forms of costs (one to service providers, one to the regulator), the 50 per cent weighting for costs has been further divided. The weighting given to the two types of costs reflects the relative importance that government places on lowering regulatory burden on service providers, as opposed to the regulator.

The weightings for the criteria are outlined in Table 8.

Table 8: Criteria weightings

Criteria	Weighting
Costs to service providers including the department as a service provider	35%
Costs to the regulator	15%
Safety and rights of service users	50%

Once an option has been scored on all the above criteria, these are multiplied by the above weightings. The results are then totalled. The option that returns the highest value is preferred.

Data sources

A range of methods were used to obtain quantitative and qualitative information for the impact assessment contained in this Regulatory Impact Statement:

- stakeholder consultations
- survey results
- desktop research.

7. Scope of services

Options for scope of services

Given the scope of services to be covered in the scheme has already been largely established, as outlined in the second reading speech for the Social Services Regulation Bill 2021,⁸ only a limited analysis is undertaken for the prescribed scope of services within the scheme. Service types in scope of the scheme broadly:

- include social services that are currently overseen by the department, whether regulated under other legislation or through funding agreements, and some related services with similar risks (in particular, disability services funded by the Transport Accident Commission and WorkSafe⁹)
- do not include some services with lower or significantly different risk (for example, disability advocacy services or neuropsychology) that might otherwise fall within the general description of services above, or which are otherwise not appropriate for regulation in the new framework (for example, services funded by the National Disability Insurance Scheme are not proposed to be regulated).

The draft regulations provide for the scheme to apply to:

- some services delivered by the department including child protection services and secure welfare services
- out-of-home care services for children and young people
- community-based child and family services
- disability services provided or funded by the department, the Transport Accident Commission or the WorkSafe
- supported residential services
- family violence services
- sexual assault services
- homelessness support services.

For further details of in-scope social services refer to **Appendix 2**.

The Social Services Regulation Taskforce has provided detailed feedback in relation to the accuracy of the service category definitions and the service types that should be included, having regard to the policy intent of the scope of the scheme.

Question 3:

Is the scope of services to be regulated under the scheme (and those excluded), as outlined in Appendix 2 and the draft regulations, clear?

If not, please provide specific examples of services where you consider the coverage is unclear.

⁸ Victorian Parliamentary Debates, Legislative Assembly, 4 August 2021, page 2,658.

⁹ Note: It is not intended that services provided by the National Disability Insurance Scheme are regulated; however, if a provider offers services that are also funded by the department, the Transport Accident Commission and WorkSafe, they will be regulated under the scheme.

The Orange Door and the scope of activities of Family Safety Victoria

The Orange Door network provides a service for individuals and families at risk of, or experiencing, family violence and families who need assistance with the care and wellbeing of children and young people. It involves specialist family violence services, family services, Aboriginal Community Controlled Organisations and Community Based Child Protection working in integrated teams to deliver intake, assessment and brief intervention services including, risk and needs assessments, safety planning, immediate supports and connecting people to services for longer term support such as case management.

The Orange Door is a partnership of government, community service organisations and Aboriginal Community Controlled Organisations. There is a partnership agreement that sets out the role and functions of the partners, including that child protection, community service organisations and Aboriginal Community Controlled Organisations are responsible for all delivery of client focussed services (social services). Family Safety Victoria (part of the department) is responsible for enabling functions such as reception, physical infrastructure/site management, governance, operational guidance, interface agreements with statewide services and technology infrastructure (for example, telephony and Client Relationship Management system).

Noting that the regulations cannot prescribe services that are not social services, the department's preliminary view is that Family Safety Victoria's functions in The Orange Door settings means they are not within scope of the draft regulations. Whilst the appropriate site management, governance and operational guidance are essential features of safe provision of social services, the department's preliminary view is that these activities are not themselves the provision of a social service – they do not include direct provision of social services (such as risk and needs assessment, safety planning and brief intervention services).

Question 4:

A. Do you consider that any of the activities undertaken by Family Safety Victoria in The Orange Door fall within the scope of the prescribed services in the draft regulations?

If yes, please indicate which services you consider would fall within the scope of the draft regulations, and which service types these services fall within.

B. What do you consider is the role of Family Safety Victoria in relation to each of these services?

8. Registration requirements

Options for registration requirements

The Social Services Regulation Act establishes a registration scheme that is ongoing rather than a scheme that requires periodic renewal by service providers. In addition, providers currently registered under the Disability Act, the Children, Youth and Families Act and the Supported Residential Services (Private Proprietors) Act will automatically be registered under the new scheme from 1 July 2024.

Other providers not currently registered – including family violence, sexual assault and homelessness support services – and new providers of social services, will need to apply to the regulator to be registered under the new scheme.

The taskforce has provided detailed feedback in relation to the proposed registration requirements. Costs for complying with other schemes were obtained from service providers through a survey and were considered as part of the cost impacts assessment of the regulations.

The two options outlined in Table 9 were tested against the Reference Case.

Table 9: Options for registration requirements

Option	Registration requirements
Reference Case	The minimum prescribed requirements to operationalise provider registration are the: <ul style="list-style-type: none"> • name of the service provider • address of the service provider • contact person.
Option A: Prescribe more extensive registration requirements and considerations based on multiple suitability requirements	Registration requirements relate to: <ul style="list-style-type: none"> • the suitability of the provider and its key personnel to operate the social service <ul style="list-style-type: none"> ○ Requirements <ul style="list-style-type: none"> – The provider of a social service (the company or other entity seeking registration), and each of its key personnel (such as directors of a company), must be a suitable person to provide the service. ○ Considerations <ul style="list-style-type: none"> – any relevant criminal history of the provider or key personnel – any findings of misconduct by a regulator or tribunal about the provider or key personnel that are relevant to suitability – any findings or judgment in relation to fraud, misrepresentation or dishonesty in any civil proceedings – whether the provider or any of its key personnel have had a registration to provide a social service revoked – whether any sanctions, conditions or restrictions have been placed on the provider or key personnel, or a relevant service owned or managed wholly or in part by the provider or any of its key personnel – whether the person or any business owned, operated or managed by the provider or key personnel has been placed under administration • the qualifications, skills or experience of the provider and key personnel of the service <ul style="list-style-type: none"> ○ Requirements: The provider of a social service must have:

Option	Registration requirements
	<ul style="list-style-type: none"> – relevant qualifications, skills or experience to provide a safe service – systems in place to ensure the service is provided by people who have suitable qualifications, skills or experience to provide a safe service – a demonstrated understanding of, and a capacity to comply with, the service requirements – key personnel of a social service must have relevant qualifications, skills or experience to provide a safe service <p><i>Note, the Regulations clarify that ‘experience’ includes ‘lived experience’</i></p> <ul style="list-style-type: none"> • the suitability of the arrangements in place to operate the service <ul style="list-style-type: none"> ○ Requirements <ul style="list-style-type: none"> – the provider of a social service must have suitable arrangements in place to provide the service. ○ Considerations <ul style="list-style-type: none"> – whether the provider has governance and operational management structures in place that are appropriate to the size and scale of the provider and the scope and complexity of the services it is seeking registration to provide – whether the provider has appropriately documented its governance and operational management structures – whether the provider has entered into appropriate insurances to operate the service – whether the provider has the financial capacity to operate the service in compliance with the Act, Social Services Standards and the regulations • suitability of the premises for the safe provision of services <ul style="list-style-type: none"> ○ Requirements <ul style="list-style-type: none"> – the premises of the service are suitable for the safe provision of the service ○ Considerations <ul style="list-style-type: none"> – the safety and accessibility requirements of services users of the service (or services) that the provider will offer – the suitability of fixtures and fittings to enable the safe use of the premises – where leasing or renting a premises from a third party, any agreements or arrangements between the provider and the third party relating to the safety of premises, facilities and fixtures – compliance of the premises with any applicable laws relating to the safety and use of the premises.
<p>Option B: Prescribe registration requirements based on a narrower assessment of suitability of provider and key personnel</p>	<p>Registration requirements only relate to the suitability of the provider and its key personnel to provide the service.</p>

Option A: Prescribe more extensive registration requirements and considerations based on multiple suitability requirements

Option A, as outlined above, proposes four elements for registration, as well as considerations the regulator may have regard to in assessing each of these elements.

Option B: Prescribe registration requirements based on a narrower assessment of suitability of provider and key personnel

Under Option B, the definition of 'suitability' will be narrower in comparison with Option A because it only applies to the suitability of the staff and does not include an assessment of the suitability of the provider's arrangements, the premises or qualifications and skills of the provider and its key personnel. Registration requirements under Option B will be less onerous. For instance, applicants may only be required to provide proof of identity, police checks and evidence of compliance with other pieces of legislation for the provider and its key personnel.

Assessment of options for registration requirements

Impact of the uncertainty of approach to implementation

The proposed regulations relating to registration include both **requirements** that a provider must meet and **considerations** that the regulator may have regard to in assessing whether the requirements have been met. The considerations signpost what the regulator **may** take into account when making a decision about an application for registration. However, it is expected that the regulator will provide additional guidance to providers about how it will assess applications and what information will be required in the context of any considerations by the regulator. The regulator will also, for example, develop application forms and processes setting out what information will need to accompany an application for registration.

As an example, in assessing the suitability of the provider and key personnel, the regulator may have regard to any relevant criminal record of the provider or key personnel. For this element, the regulator would be expected to provide guidance to providers in relation to what it would consider may be a 'relevant' criminal record, what documents it would require as evidence of this, and whether it may recognise similar screening processes for other regulatory schemes that the provider or key personnel may have already undertaken. These considerations will have an impact on compliance costs and burden, and the potential costs of Options A and B.

More details on these matters will be developed with the appointment of a regulator ahead of commencement of the scheme on 1 July 2024.

Limitations of the impact assessment

Given the above factors, some stakeholders noted they were limited in their ability to give quantitative information in relation to the impacts of registration requirements. In workshops and surveys some stakeholders advised the following:

- Without more clarity on what suitability requirements will include under the registration requirements, some stakeholders advised they could not comment with certainty on the impact on their organisation, including cost and service delivery impacts.
- Not knowing what some of the supporting information the regulator will require for registrations, considerations that the regulator will have regard to (as opposed to may), and the extent to which the considerations may differ between sectors or be uniform, also means that stakeholders may have difficulty quantifying impacts.

8. Registration requirements

- To the best of their ability, stakeholders noted they had provided comprehensive qualitative information about how they expect that the registration requirements under the proposed regulations would impact their organisation and service delivery.

This feedback has been incorporated into the impact assessment.

Costs – registration

Costs to service providers – registration

Providers currently registered under the Disability Act, the Children, Youth and Families Act and the Supported Residential Services (Private Proprietors) Act will be automatically registered under the new scheme from 1 July 2024, and those registrations will be ongoing. This means the impact of registration requirements in the proposed regulations will be minimal for approximately 45 per cent of all current providers.

Although registrations will not need to be renewed periodically, the Act provides an option for the regulator to charge an annual fee for all prescribed services. As noted previously, the impact of these fees will be analysed in a separate Regulatory Impact Statement. Given fees are out of scope for this Regulatory Impact Statement, the annual fee will have no impact on the relative scoring of the options in this Regulatory Impact Statement.

One-off registration costs will be borne by around 250 Transport Accident Commission and WorkSafe disability service providers, the department and 240 providers of homelessness support services, and sexual assault and family violence services because they are not currently required to register. It will also be borne by any new providers and any existing provider that expands its scope of services.

For these service providers costs incurred from registration are expected to result from time, effort and costs incurred by service providers to:

- understand the requirements of the Act and proposed registration requirements
- collate all the information required for registration and providing the information to the regulator – for example, providing up-to-date police checks for the provider and key personnel, providing copies of insurance certificates, financial statements, plans of the premises or copies of building permits
- develop, update or renew governance and operational management structures and policies – for example, developing fire safety, risk management, incident management and recruitment policies
- demonstrate understanding of and capacity to comply with the service requirements
- update training and other materials to ensure staff have knowledge of, and capacity to comply with, the Standards
- ensure staff have suitable skills and experience to deliver safe services
- undertake training to ensure staff are aware of their new obligations.

Question 5:

Do you agree that the description provided above is an accurate description of the costs that can be expected to be incurred as a result of the proposed registration requirements?

Please provide detail in relation to any additional costs not included in the description provided above.

Cost savings and costs not incurred by some providers will also result from the Act and proposed regulations – for example:

8. Registration requirements

- Cost savings in relation to compliance costs associated with registration for currently registered providers due to a shift from periodic registration (which currently applies to all registered social service providers) to ongoing registration.
- For disability, children, youth and families and supported residential service providers, there is no requirement to submit an application for registration to the regulator because current registrations are automatically recognised on transition to the new scheme. This applies to about 380 social service providers.
- One application for registration can be made for multiple social services simultaneously, with an IT platform supporting different information fields in the application form for different service categories. This will assist in streamlining the application process for service providers that provide multiple services.
- From 1 January 2024, social service providers will no longer be required to undertake three-yearly accreditation by an independent review body audit, or a detailed self-assessment against the Human Services Standards every 18 months. These costs are significant in terms of the out-of-pocket costs of engaging an auditor (the department funds a portion of this) and compliance costs relating to staff time to provide auditors with a wide range of documents to complete their audits, in addition to staff time associated with the self-assessment. Survey results indicated that service providers may save up to 600 hours in staff time and between \$4,500 and \$200,000 in audit costs annually, depending on the size of the provider. The removal of this requirement will offset a large proportion of the compliance costs associated with registration for those social service providers that have not been required to register before. For those providers that are currently required to register, their existing registration will automatically transition across, and removing this requirement is a net benefit.

These cost savings or costs not incurred, would be a feature in the reference case, and Options A and B.

Question 6:

- A. Although it will not be a requirement under the new regulatory framework, do you intend to continue to undertake an accreditation process once the new scheme commences?
- B. What do you consider are the annual costs from the requirement for three-yearly accreditation and mid-cycle reviews?

What do you estimate are the hours and the main components of these costs, and what dollar value would you attribute to each, per year? (such as staff time, documentation requirements, cost of the audit)

Please indicate the level of funding you receive from the department:

- \$0–\$100,000
- \$100,000–\$1,000,000
- \$1–5 million
- \$5–10 million
- \$10–50 million
- > \$50 million.

Reference Case: Costs of minimum registration requirements – name, address and contact details

Replacing requirement for periodic registration with a once-off registration requirement – resulting in ongoing cost savings for service providers

Under the new Act registration will be ongoing for service providers rather than periodically renewable as is currently the case. This will be a cost saving for those providers currently required to register.

For service providers that are not currently registered, and for any new providers, the time burden associated with collating the evidence required for registration will be a cost. These costs are likely to be borne by just over half of all service providers that are expected to fall within the scope of the new scheme.

Minimum registration requirements will result in minimal additional costs for service providers

The Reference Case is that the proposed regulations prescribe the minimum requirements for registration. These minimum requirements for registration are:

- the name of the service provider
- the service provider's address
- details of a contact person in the organisation.

The above registration requirements are assessed as minimal, so the cost is not expected to be significant for service providers compared with the status quo.

Option A: Costs of prescribing more extensive registration requirements and considerations based on multiple suitability requirements

The registration requirements outlined under Option A, which are the most extensive, will likely result in higher costs to service providers than the Reference Case.

More extensive registration requirements may increase costs associated with compliance for service providers (moderate cost increase compared with the Reference Case)

It is expected that the proposed registration requirements in Option A will result in once-off increased costs for social service providers not currently required to register or who expand their scope of services due to the additional time required to gather information for an application compared with the Reference Case. This may include time and costs associated with providing the regulator with documentation and evidence in relation to each registration requirement.

The required documentation and evidence will depend on the various matters that the regulator may consider in determining if a provider meets the registration requirements but may include, for example:

- **the suitability of the provider and key personnel** – a recent police check for each person
- **suitable arrangements** – documentation relevant to governance and operational management structures, insurance certificates and evidence of financial capacity to operate the service
- **qualifications, skills or experience** – evidence of relevant qualifications, skills or experience of the provider and key personnel, and documentation demonstrating an understanding of and capacity to comply with the service requirements
- **the suitability of the premises** – a plan of the premises where services will be delivered.

During consultations some service providers raised concerns about the potential time burden of registration. Survey responses indicated that service providers would need to dedicate staffing resources to source, collate, review and prepare information required for an application, and to

undertake an internal audit of policies to ensure compliance with registration requirements and to deliver training and update internal systems.

The providers that will be most impacted by the registration requirements at commencement of the scheme are service providers of homelessness support services, sexual assault services, family violence services, services delivered by the department and some WorkSafe and Transport Accident Commission disability services.

In relative terms, the cost impact of more extensive registration requirements at the commencement of the scheme may be more significant for smaller service providers

It is expected that the more extensive registration requirements in Option A will result in an increased cost burden for those providers that do not currently register their services.

It is also expected that the cost burden may be more pronounced, in relative terms, for smaller service providers that don't currently need to register, while larger providers may be able to meet registration requirements more easily. This is because larger providers are likely to have more resources to be able to absorb the administrative costs associated with registration activities than smaller providers.

For example, during the consultation workshops, a large service provider in the family violence sector reflected that they currently have several dedicated staff who would undertake the new registration tasks.

Smaller service providers may have fewer key personnel and smaller operations and therefore less capacity to document and provide information relevant to registration to the regulator, as compared with larger providers.

There may also be an increased cost burden for small-scale service providers that only provide certain services to one or two users. During consultations, some stakeholders noted this may be particularly relevant in some parts of regional Victoria, where service providers may offer a wide range of service types, with a small number of service users. Stakeholders from the homelessness, disability and out-of-home care sectors raised concerns that the costs of meeting registration requirements for these types of providers may be significant, especially when it relates to a small percentage of their service delivery function. Approximately 75 per cent of Transport Accident Commission providers have less than 10 clients. Approximately 16 per cent of Transport Accident Commission attendant care providers have more than ten clients. Approximately 60 per cent of WorkSafe providers support less than five clients, with the average number of clients per provider being three. It should be noted that the Act includes specific provisions for reducing regulatory burden and duplication. This is outlined further below.

Service providers being subject to multiple requirements

Social service providers have advised they currently devote substantial time and resources to registration and accreditation processes. This includes National Disability Insurance Scheme requirements, accreditation requirements such as those for community health centres, and being subject to the Child Safe Standards and the Reportable Conduct Scheme.

Survey responses indicated that providers devote a median time of 20 days per year to current registration and/or accreditation processes, with time spent ranging from four days to 49 days for most providers. To register or apply for renewal of registration, providers under the Children Youth and Families Act and Disability Act need to meet the Human Services Standards. This requires undertaking accreditation to demonstrate compliance. As noted above, providers will not be required to undertake three-yearly accreditation via independent review body audits from 1 January 2024, resulting in a significant time saving. Therefore, the survey responses may not be an accurate indicator of the compliance burden of registration under Options A, B, or the Reference Case.

Social service providers operate within a complex environment and may be subject to multiple regulatory schemes and requirements. As noted above, the regulatory framework under the Act recognises the broader framework in which providers operate and includes provisions for the regulator to recognise and reduce duplication where appropriate. In some cases, there may be the ability to streamline information required for service providers registered under multiple schemes. For example, a provider may be able to use some of the same information to meet registration under multiple schemes, such as a criminal history check for the provider's key personnel or providing evidence of the provider's existing operational and governance structures.

As noted above, the Act includes specific provisions for reducing regulatory burden and duplication. Section 32 enables the regulator to exempt a person or class of person from a requirement of registration. For example, if the regulator has enough information to demonstrate that a service provider substantially meets the same requirement for registration under another regulatory framework, such as being a suitable person, the regulator could exempt a provider from needing to meet that corresponding requirement under the Social Services Regulations. Therefore, the requirements in the regulations must be seen within the context of both the overall regulatory framework and the regulatory approach that may be undertaken by the regulator.

Suitable premises

During consultations, some service providers advised they operate out of premises that they do not own or where they are not the head lessee. These service providers noted they may need third parties to provide documents to meet the proposed suitability of premises requirement in Option A, which they advised could be time-consuming and result in additional costs.

In addition, if the regulator deems the premises unsuitable and modifications or repairs are required to meet registration, service providers may not have the power to make necessary changes without the approval of the property owner or head lessee. There may also be a cost for service providers to make the changes required by the regulator to ensure the premises are suitable for safely delivering a service.

The Social Services Regulation Act requires the Regulator to make decisions proportionate to risk and that minimise regulatory burden.¹⁰ This will guide how the Regulator makes the case-by-case assessment of the suitability of premises at registration, and what the Regulator expects services providers to do to comply.

More extensive registration requirements could result in lower costs associated with ongoing compliance (minor cost saving compared with the Reference Case)

Comprehensive suitability requirements on registration provides greater opportunity to ensure, before service provision begins, the service provider has appropriate skills or experience to safely deliver services, has suitable governance and operational procedures in place to run the service, the premises where services are delivered are safe and the service provider and its key personnel have appropriate skills or experience to safely deliver services.

This is expected to result in service providers complying with the standards from the outset – particularly given they are required to demonstrate an understanding and capacity to comply with the service requirements.

Under the Reference Case, in contrast, providers would incur costs to become compliant with the standards after registration. As the registration requirements under the Reference Case do not assess suitability, this could result in potential time and financial costs to providers due to increased compliance action by the regulator, for example improvement or prohibition notices, or repeat

¹⁰ Section 8(d) of the Act

inspections by the regulator to address non-compliance. Option A avoids these longer-term costs, offsetting some of the up-front costs of registration.

Question 7:

- A. Do you agree that prescribing more extensive registration criteria at the outset has the potential to lower future costs associated with ongoing compliance? Please provide details for your reasons.
- B. How do you think that registration costs under the scheme might impact the sector?
- C. Do you consider that the administrative and other costs of registration could contribute to providers leaving the sector or changing the services providers offer?

Please provide detail to explain your views, including which social services this may relate to and why this may occur.

Option B: Costs of prescribing registration requirements based on a narrower assessment of suitability of provider and key personnel

The registration requirements outlined under Option B will result in a higher cost to service providers when compared with the Reference Case but lower costs to service providers than Option A. This is due to registration requirements under Option B including more requirements than the Reference Case but only one out of the four criteria included in Option A – the criteria in respect of suitable applicant and key personnel. In practice, this option would mean providers would be required to develop, gather and present significantly less information to the regulator when applying for registration than under Option A but more than under the Reference Case.

Requirements relating to suitability may increase costs of meeting registration requirements compared with the Reference Case (minor cost increase compared with the Reference Case)

Under Option B, the registration requirements aiming to ensure applicants and key personnel are 'suitable' to provide the service, could result in higher costs to service providers than the Reference Case. For example, service providers may incur additional costs to demonstrate their key personnel meet the suitability requirement under Option B as compared with the Reference Case.

However, compliance costs under Option B may be similar to the Reference Case if the Regulator recognises providers' registration under other schemes. This may be possible under Option B as providers only need to demonstrate their suitability, and the suitability of their key personnel, to be registered.

Option B is expected to result in lower upfront costs to providers compared with Option A because there are fewer requirements under Option B.

More registration requirements could result in lower costs associated with ongoing compliance (marginal cost saving compared with the Reference Case)

Similar to Option A, the more prescriptive registration requirements associated with Option B compared with the Reference Case will give service providers the opportunity to ensure their services are of a certain initial standard, potentially avoiding the need to make changes subsequent to registration, and the costs of responding to enforcement action by the regulator if services are registered, which may not meet an appropriate threshold for safe service delivery.

Option B is less prescriptive, whereas Option A provides more opportunity to ensure services are at a higher standard on registration. This means there are likely to be higher costs associated with ongoing compliance under Option B.

Costs to the regulator – registration

Costs likely to be incurred by the regulator (as opposed to the costs to government where it is a direct service provider) may result from:

- set-up costs, and particularly a new IT platform for registration applications
- the regulator's significantly expanded remit compared with the existing Human Services Regulator – for example, with registration requirements extended to homelessness support, sexual assault, family violence services, department-delivered services and Transport Accident Commission and WorkSafe funded disability services (approximately 490 services in total)
- infrastructure requirements – including office space, new technologies and staff capacity to liaise with service providers
- staff costs – uplift in staff capacity and capability to assess these registration applications and ensure ongoing compliance.

These costs are discussed below for the Reference Case and the proposed regulatory options.

Reference Case: Costs of minimum registration requirements

The Reference Case is likely to result in lower costs to the regulator for the registration process compared with Options A and B because less information is required to be gathered and analysed by the regulator. However, this may result in higher ongoing costs for the regulator relating to compliance and enforcement compared with the Options A and B. This is because the regulator may be required to respond to more instances of non-compliance as a result of unsuitable providers obtaining registration since providers do not need to demonstrate suitability, as per Options A and B.

Option A: Cost of prescribing more extensive registration requirements and considerations based on multiple suitability requirements (minor cost saving compared with the Reference Case)

Although the regulator would still be required to establish systems and processes for registration for the Reference Case, the registration requirements outlined under Option A will lead to higher initial set-up costs for the regulator as compared with the Reference Case and Option B (refer to further detail below). Establishing a higher threshold for registration (Option A) will likely result in lower medium to long-term costs for the regulator when compared with the Reference Case and Option B, as it is expected that there will be lower costs associated with ongoing compliance activities.

More registration requirements will increase initial set-up costs for the regulator (moderate cost increase compared with the Reference Case)

Establishing new systems, processes and infrastructure and hiring new staff will be a requirement under the Reference Case, Option A and Option B. However, under Option A, it is expected that set-up costs are likely to be higher to support more extensive registration requirements, resulting from:

- different or more sophisticated systems – including a new IT platform to process the more detailed registration applications
- processes – including for gathering information and engaging and supporting service providers for registration and any decisions to revoke, cancel or suspend a registration, and internal processes for linking registration to monitoring and enforcement functions, as well as to any requirements for fees
- larger infrastructure requirements – including office space, new technologies and call centre capacity to liaise with service providers
- developing criteria for determining matters the regulator may consider in respect of the registration requirements

8. Registration requirements

- operational policies to assist with more comprehensive registration requirements
- increased workforce – including additional staff (surge workforce over and above the existing staffing profile) to assess applications for registration and monitor compliance with registration requirements.

Under the new scheme registration will be ongoing. As a result, it is expected that the regulator's costs associated with registration will be highest when the scheme first begins, with the effort associated with registration likely reducing after an initial period to focus on registration of new providers whose services are not automatically registered under the new scheme. Staffing costs following this initial period are expected to decrease, however these costs are expected to be higher than the status quo due to the significantly greater remit of the new regulator.

More extensive registration requirements may reduce costs associated with undertaking compliance activities (considerable cost saving compared with the Reference Case)

Option A is likely to result in lower ongoing costs for the regulator as a result of:

- more extensive registration requirements providing a single, consistent standard across all regulated service providers, which minimises the potential for confusion and misunderstanding of applicant obligations – this is likely to result in lower costs for the regulator in needing to provide support to newly registered service providers about their obligations and how to comply with the new requirements
- more information being gathered about service providers upfront, which would be available to the regulator on an ongoing basis – this is likely to reduce time, cost and effort on the part of service providers and the regulator in relation to finding or providing this information at other points in the regulatory process (for monitoring a provider's compliance with the Social Services Standards)
- a robust registration process that more thoroughly determines the suitability of providers, premises and key personnel, reducing the likelihood of harm to service users, potentially reducing regulatory action.

Option B: Costs of prescribing registration requirements based on a narrower assessment of suitability of provider and key personnel (marginal cost saving compared with the Reference Case)

The registration requirements outlined under Option B will result in marginal cost savings to the regulator as compared with the Reference Case, but these cost savings will not be as great as under Option A.

Under Option B, the regulator would need to establish scaled down versions of the same systems, processes, infrastructure and workforce as above for Option A, but reflecting a less extensive and comprehensive registration process. As a consequence, the short-term costs to the regulator will be lower compared with Option A.

However, the registration requirements, as described under Option B, lower the threshold to commence service provision compared with Option A. This can be expected to result in higher medium to longer term costs to the regulator, as compared with Option A, in the form of potentially higher costs relating to compliance activity and enforcement action.

Conclusion: costs assessment for registration – providers and regulator

Both Options A and B will result in higher costs to service providers when compared with the Reference Case. However, the costs to service providers in relation to Option A and Option B are likely to be reduced where the regulator, in accordance with the Act, is able to recognise existing registration arrangements for service providers under similar schemes, where these align. The costs of Option B to service providers are likely to be lower than Option A given the registration requirements are less extensive.

Options A and B provide cost savings for the regulator when compared with the Reference Case. While the upfront costs to the regulator of Options A and B are higher than the Reference Case, due to the need to establish new systems and processes, this is expected to be outweighed by downstream savings in compliance and enforcement costs. These cost savings are greater under Option A than Option B (refer to Table 10).

Table 10: Registration requirements – cost scores relative to the Reference Case

Criterion	Description	Weighting	Option A	Option B
Costs to service providers	Costs to service providers under proposed regulatory options, including costs relating to administrative burdens, costs of compliance with registration requirements such as cost of providing information associated with registration.	35%	-3	-0.5
Costs to the regulator	Costs to the regulator of administering, monitoring and enforcing the requirements, including processing registration applications.	15%	+2	+0.5
Weighted total	N/A	N/A	-0.75	-0.1

Benefits – registration

Safety and rights of service users

In the context of registration requirements, benefits include:

- higher levels of service user safety at the point of registration, resulting from requirements in respect of
 - suitability of the provider
 - the regulator may, for example, have regard to relevant criminal history of the provider or key personnel, or to any findings of misconduct by a regulator or tribunal about the provider or key personnel that are relevant to suitability
 - suitability of arrangements
 - for example, the regulator may have regard to whether the provider has suitable governance and operational management structures in place that are appropriate to the size and scale of the provider and the scope and complexity of the services it is seeking to register
 - qualifications, skills and experience of the provider and key personnel
 - the provider of a social service must have the relevant qualifications, skills or experience to provide a safe service, as well as systems in place to ensure the service is provided by people who have suitable qualifications or skills to provide a safe service
 - suitability of premises
 - the premises of the service must be suitable for the safe provision of the service, with the regulator able to consider, for example, the safety and accessibility requirements of services users of the service (or services) that the provider will offer, and the suitability of fixtures and fittings to enable the safe use of the premises
- reduced risks and incidents of abuse, neglect and exploitation, improving service user safety, including cultural safety and Aboriginal cultural safety.

8. Registration requirements

Additionally, a demonstrated capacity to comply with the Social Services Standards will result in an increased focus on service user safety, rights and human rights, and agency and dignity.

These benefits are discussed below for the Reference Case and each proposed regulatory option.

Question 8:

Do you agree these are the main benefits associated with registration requirements?

If you consider there are different or additional benefits, please provide further detail.

Reference Case: Benefits of minimum registration requirements

Minimum registration requirements (name, address and contact details) will not contribute any significant benefit to the safety or rights of service users. While there may be efficiencies in the regulator's processes because minimal information is required to be gathered, this would not be conducive to an efficient and effective regulatory scheme. The regulator would not have sufficient information about registered providers to enable appropriate risk assessments and a proportionate, risk-based regulatory approach. It is likely that minimal registration requirements will not adequately assess the suitability of a service provider to provide safe services, resulting in risk of harm to service users. This will contribute to a need for enforcement activities that may otherwise have been avoided, leading to a more inefficient and ineffective regulatory scheme and reduced service user safety.

Option A: Benefits of prescribing more extensive registration requirements and considerations based on multiple suitability requirements (minor to moderate benefit compared with the Reference Case)

Option A has a higher benefit to safety of service users when compared with the Reference Case.

A comprehensive registration process supports service user safety, agency and dignity at the point of registration, rather than relying on more intensive monitoring and enforcement activities once providers are already registered and offering services to service users. This option sets out requirements that must be met by a registered social service provider relating to:

- the suitability of the provider and its key personnel to provide the service – for example, whether the provider and its key personnel (such as company directors, if the provider is a company) have any relevant criminal history or findings of misconduct by a regulator or tribunal that might suggest they are not suitable to operate the service
- the suitability of the provider's arrangements to operate the service – for example, whether the provider has suitable governance and operational management structures, has appropriate insurance coverage, and has financial capacity to operate the service safely
- the provider's qualifications and experience to safely run the service – for example, whether the provider and its key personnel have previous experience in providing similar services, or are otherwise qualified to operate services of the relevant kind, and whether the provider can demonstrate understanding of, and capacity to comply with, the service requirements
- the suitability of the premises where services will be provided – for example, whether premises are safe and will be accessible to service users.

During consultations, stakeholders noted more rigorous registration processes, while likely to create costs, were also likely to ensure and support safer service delivery.

However, stakeholders from the family violence, homelessness, disability, sexual assault and out-of-home care sectors noted that the higher costs of registration may impact on service delivery to the detriment of service users, in particular for smaller providers that may need to divert resources away from service delivery to meet registration costs.

Stakeholders from the disability sector also indicated that small providers may exit the sector if registration and ongoing compliance costs are too high, potentially reducing sector diversity.

If service providers were to exit the market as a result of new regulatory requirements, this could also have a negative impact on the benefit to service users, including in relation to service user

choice and/or access. For example, service users may need to travel further to access appropriate services, and the quality of services may diminish. However, the actual impact of reducing sector diversity on the safety and rights of service users is unknown.

In addition, the Act recognises the broader regulatory landscape that social services operate within and includes guiding principles that require the regulator to reduce regulatory burden and duplication where appropriate. The Act also includes specific provisions, such as at section 32, that enable burden reduction by exempting a person or class of person from a requirement of registration.

Option B: Benefits of prescribing requirements based on a narrower assessment of suitability of provider and key personnel (minor benefit compared with the Reference Case)

Option B is more likely to support service safety and rights than the Reference Case, but is less likely to do so than Option A. This is because Option B prescribes more requirements for service providers to meet to obtain registration than the Reference Case, but fewer requirements than Option A.

By lowering the threshold for registration compared with current requirements by only including one requirement for registration, Option B increases the risk of harm and risk of breaches of rights of service users, as compared with Option A. This is because the suitability of service providers to provide safe services will not have been as rigorously tested before they are granted registration and offer social services. In addition, Option B would introduce a lower threshold for registration than the status quo.

During consultations, stakeholders from the homelessness, family violence and disability sectors stated that a low threshold for registration would not adequately confirm or support assessment of a new registrant's suitability to provide a safe service, increasing the risk of harm to service users.

For example, if service providers only need to provide criminal record checks for their key personnel but not demonstrate that the service is provided by staff who have suitable qualifications, skill or experience, there is a risk that services will be delivered by staff who may not be suitably qualified to provide safe services. This would have a detrimental impact on the safety and rights of service users being upheld and protected.

Similarly, in the absence of more detailed requirements, there would be no assessment of whether the provider has a demonstrated understanding of, and ability to comply with, the social service requirements corresponding to the six Standards, which have a key focus on service user safety, rights, dignity and agency. For example, the service user safety and dignity Standard requires providers to implement and maintain practices that support each service user to freely exercise their rights and responsibilities, acknowledge a service user's right to personal privacy and support each service user and their support persons (if any) to actively participate in making service-related decisions.

The absence of requirements around the suitability of a service provider's premises could also have an impact on service user experience and safety. For example, stakeholders from the family violence services sector noted that premises should provide a level of privacy and security to ensure user safety. However, if providers do not need to provide detail on the suitability of their premises on registration, this could place service users at risk or impact their willingness to engage with the services on an ongoing basis.

Conclusion: benefits assessments for registration

While the Reference Case and Option B represent a less onerous registration process for service providers, both options provide fewer safeguards for service users, and increase the risk that services will be less safe. This was reinforced by feedback from stakeholders. Without robust registration requirements in place, it is likely that new service providers that may not be able meet

higher suitability and safety requirements would be able to register under the Act. This would undermine the purpose and objectives of the new regulatory scheme, which focuses on safe service delivery and minimising risks of avoidable harm caused by abuse and neglect in connection with the delivery of social services.

Option A seeks to introduce a higher threshold for registration by requiring service providers to meet multiple suitability requirements, and demonstrate capacity to comply with the Standards, which is a fundamental tenet of the scheme. This will help ensure services are delivered by service providers and personnel who are also suitability qualified and at premises that are safe and appropriate. As a result, Option A is considered to deliver the greatest benefit to user safety (refer to Table 11).

Question 9:

Do you agree that Option A provides greater benefits for service users than the Reference Case and Option B?

Please provide further detail to support your answer.

Table 11: Scope of services and registration requirements – benefit scores relative to the Reference Case

Criterion	Description	Weighting	Option A	Option B
Safety and rights of service users	The effect of the regulatory option in ensuring safety and protecting the rights for service users. For example, supporting a safe, inclusive and culturally safe service environment, service delivery and workforce, improving effective governance and monitoring and enforcement responses that prevent avoidable harms to service users, and a strengthened focus on promoting the participation and dignity of service users.	50%	+3	+1
Weighted total	N/A	N/A	+1.5	+0.5

Outcome of assessment of registration options

Table 12 shows the weighted scores for the two options against the three assessment criteria and the total scores for each proposed registration option. Option A, with the most extensive registration requirements, scores highest relative to the Reference Case.

Table 12: Detailed scores for registration options relative to the Reference Case

Criterion	Weighting	Option A	Option B
Costs to service providers	35%	-3	-0.5
Costs to the regulator	15%	+2	+0.5
Safety and rights of service users	50%	+3	+1
Total (weighted)	100%	+0.75	+0.4

Summary of scores – registration requirements

The multi-criteria analysis assessment indicates that Option A scores higher than Option B and the Reference Case and is the preferred option (refer to Table 13).

Table 13: Summary scores for registration options relative to the Reference Case

Area of reform	Option A	Option B
Registration requirements	+0.75	+0.4

9. Service requirements and outcomes

Options for service requirements and outcomes

The options for service requirements and outcomes are summarised in Table 14.

Table 14: Options for service requirements and outcomes

Option	Service requirements and outcomes
Reference Case	No service requirements or outcomes are prescribed
Service requirements and outcomes – Option A	Prescribe the same service requirements and outcomes for all in-scope services
Service requirements and outcomes – Option B	Prescribe service requirements and outcomes that are tailored for each social services sector

The Social Services Regulation Act sets out six Standards that will apply to registered social service providers, focusing on safe service delivery and protecting the rights of service users. Several service requirements correspond to each of the Standards and articulate in a concrete and practical way what providers need to do to comply with the Standards. There are a range of outcomes, which are aspirational in nature, that correspond with the service requirements. The outcomes articulate what is intended to be achieved when the service requirements are implemented. For example, service requirements in respect of the Standard on accountable organisational governance includes requirements for systems for incidents and adverse reporting. One of the corresponding outcomes is that service providers have governance and leadership arrangements in place to identify, monitor and reduce risk, and improve safe service delivery.

Section 45 of the Act requires a registered social service provider, as far as is reasonably practicable, to comply with the Standards in delivering social services.

Section 45 also provides that a registered provider that meets all the service requirements that correspond with each of the six Standards is taken to comply with the Social Services Standards to which those service requirements relate, and that a provider that fails to comply with a prescribed service requirement is taken to fail to comply with the Standard to which the requirement relates.

There are penalties for non-compliance with the Standards and, as such, non-compliance with the service requirements. Given these penalties, it is important that there is clarity about what a provider needs to do to comply with the Standards, as set out in the service requirements. There are no penalties for non-compliance with the outcomes. These are included in this chapter for completeness.

The Social Services Regulation Taskforce has provided detailed feedback on the outcomes and service requirements. Costs for complying with other schemes were obtained from service providers through a survey and were considered as part of the cost impacts assessment of the regulations.

Costs – service requirements and outcomes

Reference Case: No service requirements or outcomes are prescribed

If no service requirements or outcomes are prescribed, providers would need to make their own assessment of the systems, processes, procedures and policies they would need to have in place to comply with the requirements, and their own assessment of what it would look like to comply with the Standards.

The regulator has a statutory function of supporting providers' compliance with the Act through information and guidance including by issuing guidelines and compliance codes *for the purposes of providing practical guidance to any registered social service provider that has a duty or obligation under this Act or the proposed regulations.*

Compliance codes must be approved by the Governor in Council and are considered to be a regulatory instrument. In addition, there is no penalty for failing to comply with compliance codes because there may be other means of achieving compliance with the Act or proposed regulations.

Guidelines and compliance codes can support outcomes and service requirements in regulations, but they cannot substitute for them.

The two options outlined in the table were tested against the Reference Case.

Option A: Prescribe service requirements and outcomes for all in-scope services

Under Option A, service requirements and outcomes are prescribed for each of the six Standards.

The Act provides that, as far as is reasonably practicable, a social service provider must comply with the Standards.

Each Standard will have several prescribed outcomes and service requirements that apply consistently across all the in-scope services. The regulation-making powers in the Act provide for regulations for service requirements and outcomes in relation to prescribed service requirements.

Service providers must meet the service requirements, which are intended to set out concrete, tangible actions that a provider must take to comply with the Standards. Unlike the service requirements, there is no offence for non-compliance with the prescribed outcomes – they are aspirational, reflecting the expected outcomes for services users when providers comply with the service requirements. In terms of compliance, however, there is a direct link between complying with the service requirements and complying with the Standards. The outcomes and service requirements are intended to be sufficiently flexible to apply across the diverse types of social services covered by the scheme.

As outlined above, outcomes can only be prescribed in relation to service requirements – they cannot be a standalone requirement placed on services providers. As a result, not complying with the proposed prescribed outcomes is not an offence under the Act.

The regulator may also choose to issue guidelines and compliance codes to assist service providers to comply with the Standards and associated outcomes and service requirements. It is expected that, should the need arise, this would be in addition to compliance monitoring activities that will be set out in the regulator's regulatory approach, such as through inspections, audits and, in some cases, desktop audits.

The proposed prescribed outcomes and service requirements across all Standards are summarised below.

Proposed outcomes and service requirements – Standard 1: Safe service delivery

Proposed outcomes for Standard 1

1. Service users are protected from avoidable harm in the course of the delivery of social services (*this outcome relates to service requirement 1.1*).
2. Social service providers take into account service user needs, circumstances and goals (*this outcome relates to service requirement 1.2*).

3. Service users receive services that support their health and wellbeing (*this outcome relates to service requirement 1.3*).

4. Service users receive services that are culturally safe (*this outcome relates to service requirement 1.4 and 1.5*).

Proposed service requirements for Standard 1

1.1. Service user safety

A registered social service provider must implement and maintain practices that identify and reduce the risk of harm to service users in the delivery of social services, including the delivery of online services. Harm includes harm that is caused by abuse, neglect, discrimination, exploitation or improper treatment of service users or by discrimination against service users.

1.2. Needs assessments and service planning

A registered social service provider must assess and review each service user's needs, taking into account the service user's individual circumstances and the goals of the service user.

If a service user is provided with services delivered by more than one service provider, the registered social service provider must plan and coordinate its services having regard to those other services and service providers and the service user's preferences.

1.3. Health and wellbeing

A registered social service provider must implement and maintain practices to ensure:

- services provided to a service user support the health and wellbeing of the service user
- the delivery of the services is consistent with current evidence-informed practice, including trauma-informed practice.

1.4. Cultural safety and inclusion

A registered social service provider must ensure services delivered to a service user respect the service user's cultural identity and lived experience.

A registered social service provider must ensure workers access training and are supported to deliver culturally safe services that respect each service user's cultural identity and experience.

1.5. Aboriginal cultural safety and inclusion

A registered social service provider must ensure, with respect to Aboriginal service users:

- service users' ability to express their culture and enjoy their cultural rights is encouraged and actively supported
- strategies are embedded within the service provider's organisation that equip all members and workers to acknowledge and appreciate the strengths of Aboriginal culture and understand its importance to the wellbeing and safety of Aboriginal people
- measures are adopted by the service provider organisation to ensure racism within the organisation is identified, confronted and not tolerated and that instances of racism are addressed with appropriate consequences
- the service provider organisation actively supports and facilitates participation and inclusion within it by Aboriginal people and their families
- all the service provider's policies, procedures, systems and processes together create a culturally safe and inclusive environment and meet the needs of Aboriginal people and their families.

(Note: This Standard replicates the cultural safety standard included in the new Child Safe Standards, which was developed under an Aboriginal-led process, led by the former Commissioner for Aboriginal Children and Young People.)

Proposed outcomes and service requirements – Standard 2: Service user dignity and agency

Proposed outcomes for Standard 2

1. Service users' rights are promoted and upheld (*this outcome relates to service requirements 2.1, 2.3 and 2.7*).
2. Service users can exercise their agency and participate in decisions about their services (*this outcome relates to service requirements 2.2, 2.4 and 2.5*).
3. Service users' connections to culture, family, friends and community are supported and respected (*this outcome relates to service requirement 2.6*).

Proposed service requirements for Standard 2

2.1. Dignity and respect

A registered social service provider must implement and maintain practices to ensure:

- each service user is treated with dignity and respect, acknowledging their individual diversity
- services are delivered free from discrimination.

2.2. Clear and accessible information

A registered social service provider must provide clear, comprehensive and accurate information about the following matters, in a way that is accessible to and understandable by service users:

- the services that are provided, and if applicable, any relevant service or activity that is not provided by the service provider
- the fees and costs for the services provided
- the rights and responsibilities of service users in relation to the provision of services
- the processes for lodging feedback, complaints or concerns in relation to service delivery and safety (refer to 'Feedback and complaints' – 'Systems and processes' service requirement)
- the processes for dispute management in relation to service delivery or safety (refer to 'Feedback and complaints' – 'Dispute management' service requirement).

2.3. Service user rights and responsibilities

A registered social service provider must implement and maintain practices that:

- support each service user to freely exercise their rights and responsibilities
- acknowledge a service user's right to personal privacy.

2.4. Service user inclusion and participation

A registered social service provider must implement and maintain practices that support each service user and their support persons (if any) to actively participate in making service-related decisions.

2.5. Informed consent

A registered social service provider must, before providing any service to a service user, obtain and document the informed consent of:

- the service user

9. Service requirements and outcomes

- the service user's authorised representative,¹¹ or
- if the service user does not have decision-making capacity, a person authorised by law to make decisions for the service user in relation to accessing the service.

A registered social service provider is not required to obtain informed consent to deliver a service if the service provider is authorised or required under another law to provide the service without the consent of the service user and the service provider:

- complies with the requirements of that law, including any requirements for notification, *and*
- unless notification is required under that law, notifies the following as soon as practicable of the provision of the service without informed consent and of the legal authority or requirement to do so:
 - the service user, or
 - the service user's authorised representative, or
 - if the service user does not have decision-making capacity, a person authorised by law to make decisions for the service user in relation to accessing the service.

Example:

The informed consent of a service user may not be required if a child is placed at a secure welfare service under section 242(5) or 247A(4) of the *Children, Youth and Families Act 2005* because there is a substantial and immediate risk of harm to the child.

(Note: An authorised representative would be the person's lawyer or the holder of the person's power of attorney, for example.)

2.6. Connections to culture, family and community

A registered social service provider must implement and maintain practices that support service users to maintain connections to their culture, family, friends and community.

2.7. Advocacy and support

A registered social service provider must implement and maintain practices that support service users to freely access any relevant independent or state-funded advocacy services, or applicable other support services.

Proposed outcomes and service requirements – Standard 3: Safe service environment

Proposed outcomes for Standard 3

1. Social services are provided in an environment that supports service user safety, health and wellbeing (*this outcome relates to service requirements 3.1, 3.2 and 3.3*).
2. Emergency planning and management protects service users from risks of harm (*this outcome relates to service requirement 3.4*).

¹¹ An authorised representative is proposed to be defined to include, for example, a guardian, an enduring power or attorney, a medical treatment decision maker, an administrator or a parent if the service user is a child.

Proposed service requirements for Standard 3

3.1. Safe, secure and fit-for-purpose premises, facilities and equipment

A registered provider that delivers services at premises they own or occupy must:

- identify and reduce hazards and risks of harm to service users relating to the premises, facilities, equipment, furniture and fittings used to deliver services
- ensure the premises, facilities, equipment, furniture and fittings used to deliver services are suitable for providing the service, including having regard to the accessibility needs of service users
- ensure the premises, facilities, equipment, furniture and fittings used to deliver services are maintained in a safe and serviceable condition
- in the case of a registered social service provider who occupies but does not own the premises, enter into any arrangements or agreements necessary to comply with the above requirements of this clause.

A registered social service provider that provides services at a place other than premises owned or occupied by the service provider must implement and maintain practices and enter into any arrangement or agreement necessary to manage risks to ensure the safe delivery of services at that place.

3.2. Personal and private property

A registered social service provider must implement and maintain practices to secure service users' personal and private property:

- at the service provider's premises, if services are provided at premises owned or occupied by the provider
- if services are provided at a place other than premises owned or occupied by the service provider, while the services are provided at that place.

3.3. Natural light, ventilation, heating and cooling

A registered service provider must ensure the premises at which services are provided, including private premises, have adequate natural light, ventilation, heating and cooling at a safe and comfortable temperature.

3.4. Emergency management planning

A registered social service provider must implement and maintain practices:

- to manage the risk of harm in an emergency
- to provide clear directions to service workers and service users on what to do in an emergency.

Proposed outcomes and service requirements – Standard 4: Feedback and complaints

Proposed outcomes for Standard 4

(The below outcomes relate to service requirements 4.1, 4.2, 4.3, 4.4).

1. Service users understand compliant handling processes and are able to provide feedback, complaints or concerns relating to service safety and quality.
2. Service users are protected from reprisal when providing feedback, complaints or concerns about service safety and quality.
3. Service user feedback, complaints or concerns are promptly acknowledged and dealt with.

Proposed service requirements for Standard 4

4.1. Feedback

A registered social service provider must seek feedback regularly from service users and their support people about service safety.

4.2. Systems and processes

A registered social service provider must implement and maintain systems and processes to receive, investigate, respond to, resolve, support and report on feedback, complaints or concerns about service safety (refer to 'Dignity and agency' – 'Clear and accessible information' service requirement).

A registered social service provider must inform social service users about their right to raise matters of service user safety with the Regulator for the purpose of monitoring and enforcing compliance with the social service standards

4.3. Response to feedback, complaints and concerns

A registered social service provider must acknowledge and respond to feedback, complaints or concerns of service users and their support persons in a way that:

- is confidential
- is appropriate to and accessible by service users
- is without reprisal to the service user, or their support person (if any)
- meets timeframes agreed with the service provider, or their support person (if any).

A registered social service provider must use the feedback, complaints and concerns of service users and support people to inform continuous improvements to safe service design and delivery.

4.4. Dispute management

If requested, a registered social service provider must assist service users and their support people (if any) to access services to manage and resolve disputes between service users and service providers about delivery of services, whether the dispute management services are delivered by the registered service provider or another service provider (refer to 'Dignity and agency' – 'Clear and accessible information' service requirement).

Proposed outcomes and service requirements – Standard 5: Accountable organisational governance

Proposed outcomes for Standard 5

(The below outcomes relate to service requirements 5.1, 5.2, 5.3 and 5.4).

1. Governance arrangements are transparent and accountable.
2. Governance and leadership arrangements support service users' safety, agency and dignity.
3. Registered social service providers have governance and leadership arrangements in place to identify, monitor and reduce risk, and to improve safe service delivery and service quality.

Proposed service requirements for Standard 5

5.1. Accountable governance and leadership

A registered social service provider must implement and maintain governance arrangements to provide for leadership accountability and continuous improvement for service user safety.

5.2. Safe and inclusive practice culture

A registered social service provider must implement and maintain practices that support service workers to raise concerns confidentially, without reprisal, to assist in safe service delivery.

5.3. Incident and adverse event reporting

A registered social service provider must implement and maintain an incident management system that transparently records, reports on and responds to incidents and adverse events relating to safe service provision, to improve safe service delivery.

5.4. Outsourced services

If a registered social service provider outsources elements of service delivery:

- the service provider remains accountable for safe service delivery
- the service provider must have governance and contractual arrangements that hold contractors, subcontractors and other relevant parties to account for safe service delivery.

Proposed outcomes and service requirements – Standard 6: Safe workforce

Proposed outcomes for Standard 6

(The below outcomes relate to service requirements 6.1, 6.2, 6.3, and 6.4).

1. Service workers have the knowledge and capability to safely deliver social services.
2. Service workers are adequately supported to deliver safe social services.
3. Service workers are supervised and managed to deliver safe social services.

Proposed service requirements for Standard 6

6.1. Workforce recruitment

A registered social service provider must implement and maintain recruitment practices that prioritise service user safety and wellbeing.

6.2. Workforce training

A registered social service provider must ensure service workers access ongoing training and are supported to deliver safe services.

6.3. Worker performance and conduct

A registered social service provider must implement and maintain practices to monitor and manage service worker performance and conduct to deliver safe services.

6.4. Workforce planning

A registered social service provider must implement and maintain practices for planning and managing a workforce that is adequately supported to deliver safe services.

Question 10:

- A. Are the service requirements sufficiently clear? Do you have suggestions to improve their clarity?
- B. Do you consider there are any gaps in the proposed service requirements as they relate to the Standards?

Option B: Prescribe service requirements and outcomes by sector

Under Option B, service requirements and outcomes will be prescribed by sector (there will be different requirements and different outcomes for each in-scope service type) and targeted to the specific risks in each sector. This could result in different sectors having a different set of service requirements and outcomes for each Standard.

To illustrate how this might work in practice:

- **Service requirements for Standard 3** – Safe service environment may be tailored to each sector to adequately respond to risks to users arising out of the service environment.
 - For example, some services may need to have facilities that provide privacy, while others might need more open spaces to better respond to the needs of their clients.
 - In relation to the Standard about safe service environment, the service requirement relating to *having regard to the accessibility needs of service users* could have tailored and more prescriptive accessibility needs for certain premises for social service user cohorts such as service users with disability.
- **Service requirements for Standard 6** – Safe workforce may also differ between sectors under this option.
 - Training and monitoring requirements for an accommodation service are likely to be different from non-accommodation services under this option. Some services may require staff on-site to have specific qualifications, such as first aid qualifications for certain staff in a supported residential service.
 - Family violence and sexual assault services may require a workforce with lived experience or who have training in how to provide trauma-informed support.
 - Rather than a single service requirement being to *implement and maintain recruitment practices that prioritise service user safety and wellbeing*, there could be differing worker screening requirements depending on the social services sector. For example, in the out-of-home care sector, a current Working with Children Check may be recognised. In the disability sector, screening requirements for registered disability workers imposed by the Victorian Disability Worker Commission could be recognised.

Assessment of options for service requirements and outcomes

Impact of uncertainty on and limitations of the impact assessment

Stakeholders provided comprehensive qualitative information, and some quantitative information, about how they expect that prescribing service requirements and outcomes for each Standard would impact on their organisation and service delivery.

Costs – service requirements

Costs to service providers

Stakeholders identified four types of costs associated with complying with the Standards:

- staff costs – time required to understand the Standards and service requirements
- developing or enhancing existing systems, policies, procedures and processes required to meet the service requirements
- documentation required to demonstrate compliance
- participating in audits, inspections and any other information requests from the regulator.

Question 11:

A. Do you consider, broadly, that these categories accurately reflect the costs associated with implementing the service requirements?

Are there additional compliance costs that need to be considered?

B. Do you consider that you will be able to update and upgrade existing systems, policies and procedures to comply with the service requirements, or will you need to develop new systems, policies and procedures?

Please provide further detail to support your response.

Reference Case: Costs to providers from being required to comply with the Standards, and not service requirements and outcomes

Under the Reference Case, service providers would be required to comply with the six Standards set out in the Act. There would be no service requirements or outcomes setting out what a provider needs to do to comply with the Standards.

Stakeholders identified that the cost of complying with the new Standards would depend on information and advice provided by the regulator, and particularly how the Human Services Standards align with or differ from, the new Standards.

The department's analysis indicates that the Standards are broadly aligned with the Human Services Standards, with no significant gaps. Both sets of Standards cover similar themes of safety in service delivery, service user wellbeing and agency, and matters related to the provider's organisational and procedural arrangements that affect service user safety. Except for some disability services funded by the WorkSafe and Transport Accident Commission and the supported residential services sector, all other social services within the scope of the new scheme are already required to comply with the Human Services Standards.

In addition, supported residential services are currently required to comply with Accommodation and Personal Support Standards, which are also broadly aligned with the Standards. While there is broad alignment between existing and new Standards, it is expected that providers will incur costs to implement the new Standards, in cases where the two sets of Standards differ, as set out below.

During consultations, stakeholders advised that while existing processes for registration and accreditation would be leveraged, updating processes and operational policies to comply with the new Standards would require an investment of time to understand how the new Standards apply, to update systems, policies and procedures, to train staff and to determine and develop documentation required to demonstrate compliance.

Given the Human Services Standards, the Accommodation and Personal Support Standards and the new Standards broadly align, it is expected that most service providers will need to update existing policies, procedures, systems and processes, and introduce a limited number of new policies and procedures for a relatively small number of new requirements.

As noted earlier the commencement of the scheme has been delayed by 12 months to 1 July 2024 to provide social service providers with additional time to make the necessary changes to transition to the new scheme. It is expected that this extra time will also reduce costs to service providers associated with transition, as they can align updating systems, policies and procedures with their normal cycle of updates, and can align training staff about new requirements with regular staff training sessions.

Option A: Costs to service providers from prescribing service requirements and outcomes corresponding to the six Standards, for all in-scope services (minor cost saving compared with the Reference Case)

It is expected that Option A will result in minor cost savings to service providers compared with the Reference Case.

Prescribing outcomes and service requirements for each Standard under Option A may increase costs to providers in the short term (compared with the Reference Case or Option B) because of being more prescriptive about how service providers must demonstrate compliance. However, it is expected that the costs to service providers will reduce over time because the new service requirements are more concrete and tangible.

The service requirements will also save providers from needing to make their own assessment of how to comply with the Standards, leading to savings compared with the reference case.

The Standards on their own are high level and, without corresponding service requirements, it is not clear what actions service providers need to take to comply with the Standards, and the extent to which they need to take such action. Without this clarity, service providers may not enhance or develop appropriate systems, policies, procedures and processes to comply with the Standards. This could lead to providers incurring costs responding to action by the regulator to address non-compliance. Providers may also over invest in systems, policies and procedures to comply with the Standards, if the compliance approach is unclear.

Costs of complying with specific service requirements and outcomes will impact on service providers differently

Under Option A, the prescribed outcomes and service requirements will be applied consistently across all in-scope services. As a result, all in-scope service providers will need to invest time and resources to ensure compliance with the new Standards and the prescribed outcomes and service requirements. However, these costs will vary between sectors and service providers.

The proposed service requirements are very similar to the current action areas under the Human Services Standards, in that they cover similar themes of safety in service delivery, service user wellbeing and agency, and matters related to the provider's organisational and procedural arrangements. Although they are similar, the Standards are generally drafted as more clear and concrete obligations. By contrast, most Human Services Standards and action areas are outcomes-based, and therefore expressed in terms of the impact on service users.

Using the example of requirements relating to service user participation, the difference in approaches between Human Services Standards and the proposed service requirements is set out below:

- a relevant service requirement says: 'A registered social service provider must implement and maintain practices that support each service user and their support persons to actively participate in making service-related decisions'. It is expressed as an obligation, to take specified action (implement and maintain practices directed to the stated object)
- a relevant Human Services Standard says: 'People actively participate in an assessment of their strengths, risks, wants and needs'. This is an outcome, framed in terms of the service user's experience of participation, so it is unclear what the service provider's obligations are to meet the outcome.

Therefore, it is expected that the service requirements, proposed to be prescribed under Option A, will make compliance requirements more explicit for service providers, which should reduce the expected administrative and compliance costs (as compared with the Reference Case). This view was echoed by stakeholders during consultations, where some stakeholders noted that the proposed service requirements were more tangible and clear and removed duplication currently contained within the Human Services Standards.

This change in approach to expressing the requirements as obligations on service providers could also reduce costs to service providers resulting from avoiding penalties relating to non-compliance with the current Human Services Standards.

During consultations, stakeholders from the out-of-home care sector commented that larger service providers could:

- generally absorb any increased costs associated with the prescribed service requirements
- use existing resources already allocated to administrative and regulatory tasks.

In the survey results, providers variously estimated they may need to devote between \$5,000 and \$270,000 per year to address the costs of complying with new service requirements. Providers noted these estimations could be varied by details about scheme implementation that remained to be finalised. The breakdown of what these costs relate to is unclear.

In the survey responses, providers that tended to estimate lower relative costs for complying with the new Standards and service requirements were often larger. These organisations may have existing systems and processes that can be adapted. Smaller providers reported that they may need to dedicate more resources to meet the obligations set out in the proposed service requirements.

The need to comply with additional service requirements and outcomes may disproportionately impact on disability providers and those in regional and rural areas

As previously outlined, the majority of Transport Accident Commission and WorkSafe funded disability service providers that are within the scope of the scheme do not currently register with the Human Services Regulator and are not required to comply with the Human Services Standards. There are approximately 300 Transport Accident Commission and WorkSafe disability service providers, with around 50 providers registered under the Disability Act. In addition, there are a large number of providers registered with National Disability Insurance Scheme.

During consultations, some providers of Transport Accident Commission and WorkSafe disability funded service providers expressed concern that the new service requirements would result in higher administrative costs for their sector and may overburden smaller service providers and those located in regional and rural areas with a small number of clients. This is as a result of having to comply with both the National Disability Insurance Scheme Practice Standards and the new Standards. As noted previously, approximately 84 per cent of Transport Accident Commission attendant care providers have less than ten clients. Approximately 60 per cent of WorkSafe providers support less than five clients, with the average number of clients per provider being three. Higher relative costs are expected to result where disability providers have a small number of Transport Accident Commission and WorkSafe clients and are not currently registered under the Disability Act – meaning they are not currently required to comply with the Human Services Standards.

During consultations, stakeholders in these sectors expressed concern that this could result in smaller service providers leaving the sector, potentially reducing the number of services offered, which would impact on service user's choice, and access to local services.

However, it is expected that these costs will result from compliance with the new Standards as set out under the Act, and therefore are included as costs of the Reference Case.

Some of the increased compliance costs from implementing the new Standards could be mitigated depending on how the regulator implements the regulatory framework.

As an example of current practices where existing 'like' requirements are recognised, the Human Services Regulator has determined, in relation to disability services in scope of the Human Services Standards that are also National Disability Insurance Scheme providers, that there is some consistency between the Human Services and National Disability Insurance Scheme Practice

9. Service requirements and outcomes

Standards for governance and management (although not for Aboriginal cultural safety and diversity). As a result, the Human Services Regulator accepts certification against the National Disability Insurance Scheme Practice Standards (and evidence of compliance with the Human Services Standards for Aboriginal cultural safety and diversity) as fulfilling certain service provider obligations to demonstrate compliance with the Human Services Standards under the Disability Act.

Question 12:

- A. Are you a provider of disability services that offers services to a small number of Transport Accident Commission and WorkSafe clients?
- B. Are the service requirements likely to affect your decision making about offering these services in future, to Transport Accident Commission or WorkSafe clients? Please provide further detail if your answer is yes.

Option B: Costs to service providers from prescribing service requirements and outcomes, tailored for each social services sector (marginal to minor cost saving compared with the Reference Case)

Under Option B, specific separate service requirements and outcomes would be prescribed for each social services sector.

Similar to Option A, prescribing service requirements specifically for each sector is likely to result in incremental costs, at the outset, for service providers to update systems, policies, procedures and staff training, as compared with the Reference Case. In addition, the additional clarity provided by sector-specific service requirements under Option B will also likely result in lower overall costs to service providers than the Reference Case.

However, unlike Option A, providers that operate across multiple service types, such as family violence and homelessness support services, may incur additional costs. During consultations, stakeholders from the homelessness, disability (in particular for those who operate across multiple service types) and out-of-home care sectors indicated that prescribing service requirements and outcomes by sector may increase the complexity for both service providers and the regulator, in terms of gathering and assessing evidence in support of compliance.

This is because they will have to comply with separate sets of service requirements and therefore would be required to have separate policies, procedures, processes and systems for the different service types, resulting in higher compliance costs compared with Option A and the Reference Case.

Costs of complying with sector-specific requirements will impact on service providers differently

In consultations, service providers that provide social services that are not related to accommodation (for example, time-limited interventions such as counselling or referral services, as opposed to residential services) reported that a sector-specific set of service requirements may result in lower administrative costs. Stakeholders suggested that the activities required to comply with the sector-specific service requirements under Option B would be more tailored to the type and level of risk to service users and therefore more easily met than the sector-wide service requirements proposed in Option A.

The proposed service requirements outlined in Option A are considered to be the minimum requirements across all providers.

As a result, it is expected that the administrative and cost burden associated with the proposed service requirements under Options A and B are likely to be similar for service providers that offer one service type. The proposed service requirements under both options cover concepts that are equally applicable across the social services sector, such as service user safety, cultural safety, dignity and respect, service user rights, having safe premises, recruitment practices that emphasise service user safety, and incident and adverse reporting.

However, service providers that offer services across more than one sector would experience a higher administrative burden, as compared with Option A, because each provider would be required

to comply with multiple service requirements for different services. Many of the approximately 700 providers of social services in Victoria offer more than one service type. For example, some family violence service providers also provide sexual assault services and may provide homelessness support services. Some stakeholders noted providers may offer a broad range of services such as out-of-home care as well as community-based child and family services, family violence services and homelessness support services, and that this option could be complex and costly in this case.

Therefore, the net impact is marginally higher costs to service providers associated with Option B compared with Option A, due to the impact on providers of offering more than one social service.

Costs to the regulator

Reference Case

For the Reference Case, service providers would comply with the six Standards, with no service requirements prescribed in regulations.

The costs to the regulator from this transition from the Human Services Standards to the new Standards include costs relating to:

- increased staffing capacity of the regulator in recognition of its significantly expanded regulatory remit including regulating homelessness support services, family violence services, some WorkSafe and Transport Accident Commission disability services, and department-delivered services such as child protection services (around 490 services in total), which were previously not formally within scope of the regulator, for complying with the Standards
- a new and specialised function to assess compliance with Aboriginal cultural safety and inclusion in the service requirements
- engagement and communications for stakeholders, including guidance material
- the development and implementation of operational policies and procedures, and its approach to compliance and enforcement
- development of guidelines and compliance codes for service providers, providing practical advice about how to comply with the requirements under the scheme, including with the Standards
- staff training and capacity building to ensure staff within the regulator can effectively operationalise the new scheme
- the development of a new end-to-end information and communication technology system including as a platform for compliance and enforcement actions.

In addition, because no service requirements or outcomes will be prescribed under the Reference Case, it may also be more difficult to assess compliance with the Standards given there is less certainty in how the requirements apply across sectors and to service providers. The Reference Case may result in the regulator needing to issue an increased number of guidelines and compliance codes to assist service providers to understand how to comply with the Standards.

Option A: Costs to the regulator from prescribing service requirements and outcomes for all in-scope services (minor cost saving compared with the Reference Case)

The regulator will achieve cost savings over time from Option A, when compared with the Reference Case.

Prescribing service requirements and outcomes, as outlined under Option A, will, over time, result in cost savings to the regulator as compared with the Reference Case. Initial set-up costs are likely to be higher for Option A than the Reference Case, specifically in relation to costs associated with IT, staffing and infrastructure. However, initially there are likely to be higher costs for the Regulator under the reference case than Option A to develop guidance about how to comply with the Standards and in supporting providers to understand and comply with the Standards. Over time, the

introduction of clear and consistent service requirements that apply to all providers is expected to position the regulator to make a clear and objective assessment of whether providers have complied with the service requirements and, consequently, the Standards. This is expected to lower the regulator's compliance and enforcement costs over time. As a result, Option A leads to cost savings over the life of the regulations (10 years from 1 July 2024) when compared with the Reference Case.

Costs that are unique to Option A, when compared with the Reference Case, are outlined below.

Assessing compliance against the prescribed service requirements and outcomes is likely to be clearer, resulting in lower costs over time

It is expected that Option A will result in lower costs than the Reference Case. This is because the service requirements provide detail to providers about what they need to do to comply with the Standards, meaning that less guidance material will be required to be developed by the regulator. Compliance monitoring activities by the regulator are also expected to be less resource-intensive under Option A than the Reference Case because the service requirements will consistently set out what providers need to do to comply and the regulator will not need to determine if a variety of different practices implemented by different providers meets the Standards.

Option B: Costs to the regulator from prescribing service requirements and outcomes by sector (marginal to minor cost saving compared with the Reference Case)

Under Option B, although service requirements and outcomes will be prescribed, they will not apply consistently across all in-scope services. This will likely result in cost savings compared with the Reference Case, but smaller cost savings than Option A.

The set-up costs under Option B are likely to be higher than the Reference Case and Option A. For example, the costs associated with IT, staffing and other infrastructure are likely to be higher under Option B because the systems and processes supporting compliance will need to be tailored for each sector. However, similar to Option A there are likely to be higher initial costs for the Regulator under the reference case than Option B in relation to developing guidance about how to comply with the Standards and in supporting providers to understand and comply with the Standards.

In addition, the introduction of sector-specific service requirements and outcomes is likely to increase the costs to the regulator in enforcing the scheme compared with Option A. For example, the costs associated with providing direct support to the sector are expected to be higher than Option A because there will be greater variation across service requirements and outcomes. Therefore, the regulator will be required to provide more tailored information including guidelines and communications, which will result in higher costs than Option A.

Under Option B, the lack of uniform prescribed service requirements and outcomes is more complex and therefore more costly for the regulator. It would be required to develop multiple sets of guidance material, compliance codes, operational policies and compliance and enforcement strategies. The regulator would also be required to consult separately with the various sectors in developing guidelines and compliance codes, further increasing the cost impact of this option.

Conclusion – overall costs assessment: service providers and regulator

Options A and B result in increased costs for service providers and the regulator in the short term, but larger cost savings for service providers and the regulator in the longer term when compared with the Reference Case (refer to Table 15).

Prescribing service requirements and outcomes, whether they apply sector-wide or are tailored to each sector, will support a more efficient and cost-effective regulatory scheme for both providers and the regulator. The cost savings under Option A are greater than Option B. This is because the lack of uniformity in prescribed service requirements under Option B will make it more challenging

and therefore more costly for the regulator to develop guidance material and determine compliance and will impose a greater burden on providers that offer a range of social services.

Table 15: Service requirements – cost scores relative to the Reference Case

Criterion	Description	Weighting	Option A	Option B
Costs to service providers (including where the department is a service provider)	Costs to service providers under proposed regulatory options, including costs relating to administrative burdens associated with understanding the new Standards and service requirements, staff training and costs of complying with new service requirements, including costs relating to developing internal processes and procedures and gathering evidence of compliance and responding to information requests from the regulator for compliance.	35%	+2	+1
Costs to the regulator	Costs to the regulator of administering, monitoring and enforcing the requirements, which includes preparing guidance material to support the regulator’s approach to compliance and enforcement, developing compliance codes and developing new systems to support compliance and enforcement actions.	15%	+3	+1
Weighted total	N/A	N/A	+1.15	+0.5

Benefits – service requirements

Safety and rights of service users

In relation to prescribing service requirements and outcomes, benefits include:

- more achievable, tangible and specified actions for service providers results in regulatory efficiency, which also leads to better safety outcomes for service users
- service users will be protected from avoidable harms because services will be better designed to support service user safety.

These benefits are discussed below for the Reference Case and each proposed regulatory option.

Question 13:

Do you agree these are the main benefits associated with implementing service requirements?
 If you consider there are different or additional benefits, please provide further detail.

Benefits – Reference Case

Under the Reference Case, service requirements will not be prescribed but providers would need to comply with the six Standards.

These Standards will act as guiding principles for service providers and will help support providers to ensure their service protects service user safety and promotes the rights of users. However, requiring providers to adhere to the Standards, which are high level and principles-based, without any additional service requirements specified is likely to lead to inconsistent application of the

Standards. This inconsistency could undermine the physical, emotional and cultural safety of service users.

In consultations, stakeholders (including from the family violence and sexual assault sectors) reported that without defined, consistent and clear service requirements, service providers could have difficulty implementing the appropriate systems to meet the requirements, which in turn could impact on service user safety. As a result, the safety and rights of service users are, on balance, unlikely to be as well protected under the Reference Case as compared with Options A and B.

Benefits – Option A: Prescribe uniform service requirements and outcomes for all in-scope services (moderate benefit compared with the Reference Case)

Option A has a moderate benefit to safety and rights when compared with the Reference Case.

Prescribing service requirements for each of the six Standards will articulate concrete, tangible actions that service providers are required to take to demonstrate compliance with the Standards. By including service requirements under each Standard (for example, through recruitment and screening practices, supporting service users to exercise their rights and responsibilities, and ensuring services are culturally safe), service users will be protected from avoidable harms and services will be better designed to support user health and wellbeing.

For example, Standard 1 requires social services to be safely delivered based on assessed needs. Without any specificity around what this means, service providers may interpret this Standard as only being about protecting service users from specific types of harm such as physical harm. Prescribing outcomes for Standard 1 makes it clear that this also encompasses service user health, wellbeing, cultural safety and inclusion, Aboriginal cultural safety and inclusion, psychological safety, online safety, and needs assessment and planning for each service user.

Specifying the service requirements for each Standard will help create consistency in service delivery and outcomes for service users across all services in a way that improves safety and promotes the rights of service users. Articulating clear requirements also enables the regulator to more effectively identify and monitor for any practices that undermine the dignity of service users and their ability to participate autonomously and safely.

In addition, prescribing service requirements for all services consolidates the Standards into achievable, tangible and specified actions for service providers, which also enables the regulator to oversee a more efficient, streamlined and clear regulatory framework, resulting in better safety outcomes for service users.

Although Option A is expected to improve the safety and rights of services users, the higher short-term costs of Option A to service providers (compared with the Reference Case) could initially have a potential negative impact on the safety of users. For example, some stakeholders suggested in consultations that higher costs associated with updating policies and procedures during the initial transition process may require some service providers to initially divert resources away from service delivery.

Stakeholders also expressed concern that this could result in smaller service providers being forced out of the sector, reducing the number and diversity of services offered. However, as noted earlier, many service providers are already complying with standards that align with the new Standards, and providers have a long lead time to transition to the new scheme. It is therefore expected that these impacts would be minimal.

Benefits – Option B: Prescribe service requirements and outcomes by sector (minor benefit compared with the Reference Case)

Option B provides higher benefits than the Reference Case in respect of service user safety, wellbeing, rights, agency and dignity.

Prescribing sector-specific service requirements for the Standards gives service providers achievable, tangible and specified actions required to demonstrate compliance with the Standards. This results in better safety outcomes for service users. However, compared with Option A, Option B may provide fewer benefits overall to service users who access multiple services given the likely variation and complexity in requirements. For example, service users and their families may be less aware of and able to advocate for their rights where there is variation across services. This may reduce the protective effect of the service requirements.

Scoring

Table 16 summarises benefit scores relative to the Reference Case.

Table 16: Service requirements and outcomes – benefit scores relative to the Reference Case

Criterion	Description	Weighting	Option A	Option B
Safety	The effect of the regulatory option in ensuring safety and protecting the rights of service users. For example, supporting a safe, inclusive and culturally safe service environment, service delivery and workforce, improving effective governance and monitoring and enforcement responses that prevent avoidable harms to service users, and a strengthened focus on promoting the participation and dignity of service users.	50%	+4	+3
Weighted total	N/A	N/A	+2	+1.5

Conclusion – benefits assessment

Although the Reference Case is able to protect the safety and rights of service users through the six Standards, lack of clarity and specificity about what providers need to do to meet the Standards creates the potential for confusion and may result in service providers not complying with the requirements. As a result, the physical, emotional and cultural safety and wellbeing of service users could be undermined.

A single set of service requirements for all services consolidates the Standards into achievable, tangible and specified actions for service providers. It also enables the regulator to oversee a more efficient, streamlined and clear regulatory framework, resulting in better safety outcomes for service users.

Having different service requirements by sector, as in Option B, could be confusing and complex for service users who access multiple services, undermining their ability to advocate for themselves and their rights.

A key policy driver for the new regulatory scheme is to regulate and support safe service delivery for social services while limiting duplication and complexity. Applying a common set of standards and service requirements to services within the scope of the scheme will better address the common set of risks to service users, such as risks of harm and neglect.

Question 14:

Do you agree that Option A provides greater benefits for service users than the Reference Case and Option B?

Please provide further detail to support your answer.

Outcome of assessment of options for service requirements and outcomes

Table 17 shows the weighted scores for the two options against the three assessment criteria and the total scores for each option. The scores indicate that Option A is preferable and provides the highest overall benefit relative to the Reference Case.

Table 17: Detailed scores for service requirement options relative to the Reference Case

Criterion	Weighting	Option A	Option B
Costs to service providers	35%	+2	+1
Costs to the regulator	15%	+3	+1
Safety and rights of service users	50%	+4	+3
Total (weighted)	100%	+3.15	+2

Summary of scores – service requirements and outcomes

The multi-criteria analysis assessment indicates that Option A scores higher than Option B as detailed below, and therefore, is preferred (refer to Table 18).

Table 18: Summary scores for service requirement options relative to the Reference Case

Area of reform	Option A	Option B
Service requirements	+3.15	+2

10. Worker and Carer Exclusion Scheme

Options for regulating out-of-home care workers and carers

The Social Services Regulation Act establishes a new Worker and Carer Exclusion Scheme, replacing the Victorian Carer Register and the Suitability Panel under the Children, Youth and Families Act. The Victorian Carer Register is essentially a ‘positive licensing’ scheme. It requires out-of-home-care services to register a carer after checking they are not disqualified, and within 14 days of having approved them as a foster carer or employed or engaged them as a worker or carer.

Similar to the Victorian Carer Register and the Suitability Panel, the Worker and Carer Exclusion Scheme is designed to prevent those individuals found to present an unacceptable risk to children from working or providing care in the out-of-home care system. As previously noted, the Worker and Carer Exclusion Scheme is intended to mirror the scope of the Victorian Carer Register but represents a ‘negative licensing’ regime whereby workers and carers can be excluded from performing certain types of work.

Section 52 of the Act sets out conduct that may lead to exclusion, and section 52(d) enables additional conduct that could lead to exclusion to be prescribed. A worker or carer can only be excluded where they have been found to have engaged in conduct as set out in the Act or prescribed in regulations. If nothing is prescribed, a worker or carer could only be excluded based on the conduct set out in the Act (set out below in the Reference Case).

The out-of-home care sector has provided feedback in relation to the Worker and Carer Exclusion Scheme through a series of consultations on the draft regulations for that scheme. Costs for complying with other schemes were obtained from service providers through a survey and were considered as part of the cost impacts assessment of the regulations.

The two regulatory options are compared with the Reference Case, as outlined in Table 19.

Table 19: Options for regulating out-of-home care workers and carers

Option	Potential outcome
Reference Case	No additional conduct would be prescribed. A worker or carer could be excluded from working in the out-of-home care sector where they are found to have engaged in the following conduct, as set out in the Act: <ul style="list-style-type: none"> • conduct that causes or is reasonably likely to cause serious harm to a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user • persistent or repeated conduct that results in harm to a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user.
Option A: Prescribe additional conduct to the conduct specified in the Act that can lead to exclusion from the Worker and Carer Exclusion Scheme	Under Option A, it is proposed to prescribe the various types of reportable conduct, as defined under the Child Wellbeing and Safety Act, as additional conduct that could lead to a person being excluded from providing out-of-home care services. This option aligns with the explanatory memorandum for the Social Services Regulation Bill, which stated ‘it is proposed that the

Option	Potential outcome
	<p>prescribed grounds of conduct will broadly align to the Reportable Conduct Scheme’.</p> <p>The regulator for the Reportable Conduct Scheme, the Commission for Children and Young People, currently provides detailed guidance about the definition of reportable conduct. All providers of out-of-home care are required to comply with the Reportable Conduct Scheme and are therefore familiar with the definition of reportable conduct.</p> <p>The additional conduct includes:</p> <ul style="list-style-type: none"> • sexual offences committed against, with or in the presence of a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user, whether or not a criminal proceeding has commenced or concluded • sexual misconduct and physical violence committed against, with or in the presence of a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user • any behaviour that causes significant emotional or psychological harm to a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user • significant neglect of a Worker and Carer Exclusion Scheme service user, or a person with the characteristics of a Worker and Carer Exclusion Scheme service user.
<p>Option B: Prescribe a narrower definition of additional conduct in addition to conduct specified in the Act that can lead to exclusion from the Worker and Carer Exclusion Scheme</p>	<p>This option picks up some reportable conduct, but not:</p> <ul style="list-style-type: none"> • any behaviour that causes significant emotional or psychological harm to a child • significant neglect of a child.

Reference Case: No additional conduct would be prescribed

If a worker or carer is found to have engaged in conduct that could lead to exclusion, and a panel convened by the regulator determines that they pose an unjustifiable risk of harm to a Worker and Carer Exclusion Scheme service user or a person with the same characteristics, they would be excluded from providing out-of-home care services and placed on a database of excluded workers and carers maintained by the regulator.

The two options detailed below were considered in relation to the additional conduct that could be prescribed in the regulations that could lead to a worker or carer being excluded from providing out-of-home care services.

Assessment of options for regulating out-of-home care workers and carers

Limitations of the impact assessment

The Worker and Carer Exclusion Scheme is intended to apply to workers and carers in the out-of-home care sector. As a result, only the out-of-home care sector was asked to provide feedback on the proposal in this section of the Regulatory Impact Statement.

Stakeholders expressed difficulty in being able to accurately comment on the possible impacts of the options assessed in this section of the Regulatory Impact Statement. Some comments from stakeholders indicated possible confusion between the requirements in the Act and regulations, which may have made it challenging to identify cost impacts associated with the regulations.

For example, one provider commented that the lack of clarity on whether service providers are required to self-report potentially exclusionary conduct made it difficult to assess how easy it would be to comply with the new scheme. The proposed regulations relating to additional conduct that could lead to a worker or carer being excluded from working in the out-of-home care sector won't impact on reporting requirements to the regulator. Reporting requirements are set out in the Act and are not impacted by the proposed regulations. However, to the best of their ability, stakeholders provided comprehensive qualitative information about how prescribing additional conduct as part of the Worker and Carer Exclusion Scheme would improve safety for service users.

Costs – regulating out-of-home care workers and carers

Costs to service providers

In the context of prescribing additional conduct that may lead to exclusion under the Worker and Carer Exclusion Scheme, costs incurred by service providers may result from:

- time and effort by service providers to:
 - respond to investigations undertaken by the regulator
 - recruit workers and carers to replace staff who may have been stood down or excluded
 - undertake additional checks to determine whether a prospective employee has been excluded under the Worker and Carer Exclusion Scheme as a result of additional recruitment to replace staff who may have been stood down or excluded
- undertaking assessments to determine whether staff must be stood down and identifying the risk management approach to be taken if a worker or carer is found to pose an unacceptable risk.

These costs are discussed below for the Reference Case and each proposed regulatory option.

Question 15:

Do you think these are the main costs associated with additional conduct that may lead to a worker being excluded?

If you consider there are additional costs, please provide further detail.

Costs to providers – Reference Case

Increased costs to providers to respond to investigations undertaken by the regulator under the Reference Case compared with investigations under the Children, Youth and Families Act (the status quo)

The conduct that will be within the scope of the new scheme as set out in the Social Services Regulation Act (the Reference Case) is significantly broader than under the Children, Youth and

Families Act (the status quo). Currently, the Human Services Regulator and Suitability Panel can only investigate allegations of physical or sexual abuse against a child or young person in out-of-home care. The Worker and Carer Exclusion Scheme will expand this scope to investigate allegations of conduct that causes or is likely to cause serious harm and persistent or repeated conduct that results in harm – bringing in conduct that leads to psychological and emotional harm and financial and cultural harms.

Based on current data, it is anticipated that the Worker and Carer Exclusion Scheme will deal with five to six times the number of matters currently dealt with by the Human Services Regulator and the Suitability Panel. Currently, the Human Services Regulator receives 40–60 allegations of abuse by a worker per year under the Children, Youth and Families Act (the status quo). The conduct that will be in scope of the new scheme will be significantly broadened to investigate allegations of conduct that ‘causes or is likely to cause serious harm’ and persistent or repeated conduct that results in harm. It is estimated that there will be an increase to 250–300 allegations of serious harm per year under the Reference Case.

The increased number of investigations could result in additional costs to providers from having to wait for the regulator to undertake an investigation or a panel to make a determination about a worker or carer they employ. Costs could also arise from complying with the regulator’s investigation – for example, participating in interviews, allowing staff time to take part in interviews and gathering and providing information to assist the regulator’s investigation.

While the transition to the Worker and Carer Exclusion Scheme will likely result in a greater number of matters requiring investigation than under the Children, Youth and Families Act, the potential increase in costs on providers associated with more investigations by the regulator may be mitigated by provisions in the Social Services Regulation Act. The Act enables the regulator to not investigate if a matter is being investigated by another regulatory or government body such as the National Disability Insurance Scheme or the department, or under the Reportable Conduct Scheme, and, where appropriate, to rely on an investigative report by another regulatory body or under the Reportable Conduct Scheme. The conduct that could lead to exclusion under the Reference Case, as set out in the Act, is likely to overlap with all serious matters being investigated under the Reportable Conduct Scheme, including sexual offences, sexual misconduct, physical violence and behaviour that leads to permanent or long-term impairment, serious disfigurement, severe psychological injury or developmental delay. As such, the provisions in the Act that recognise investigations under other regulatory schemes and other government bodies is expected to reduce the burden on service providers that could result from unnecessary duplicative investigations.

Marginally increased costs for service providers to conduct checks under the Worker and Carer Exclusion Scheme than under the Children Youth and Families Act

Under the Worker and Carer Exclusion Scheme as set out in the Act (the Reference Case), certain out-of-home care providers will be required to confirm that any prospective workers and carers are not listed on the database of excluded workers and carers. This is similar to the current requirement of ensuring a worker or carer has not been disqualified from the Victorian Carer Register before approving, employing or engaging them.

As noted above, the increased conduct that could lead to exclusion under the reference case compared with the status quo, may result in more workers or carers being excluded. To replace staff who are excluded from providing care or services in the out-of-home care sector, more database checks will be conducted by providers, which may marginally increase costs associated with checking the database.

During 2020–21, the Suitability Panel held seven hearings and two carers were disqualified¹². As noted earlier, it is anticipated that the worker and carer exclusion scheme will deal with five to six times the number of matters currently dealt with by the Human Services Regulator and the Suitability Panel. Given the low numbers of matters that result in a carer being disqualified currently, in relative terms, the numbers of additional workers excluded under the reference case are expected to be small and therefore increased costs to providers associated with additional database checks are expected to be marginal.

Any cost increases for service providers to report misconduct to the regulator under the Worker and Carer Exclusion Scheme are likely to be marginal as compared with the current requirements under the Children, Youth and Families Act

The Social Services Regulation Act sets out matters that a social service provider must notify the regulator about, which includes notifiable incidents. Under the Act, all social service providers are required to notify the regulator about incidents that result in or are reasonably likely to result in serious harm to a service user, including a Worker and Carer Exclusion Scheme service user. Serious harm includes harm that results in death; loss of a foetus; permanent or long-term serious impairment, serious disfigurement, or severe psychological injury or developmental delay.

It is not proposed to align the notification requirements under the Social Services Regulation Act to the conduct that could lead to exclusion under the Worker and Carer Exclusion Scheme. This is because the regulator will be notified about matters from a variety of sources, including for example from providers and the Commission for Children and Young People. However a provider may voluntarily notify the regulator about any conduct that could lead to exclusion.

Currently, under the Children, Youth and Families Act out-of-home care providers are required to notify the Secretary where they become aware of an allegation that a worker or carer has sexually or physically abused a child in their care and are reasonably satisfied an investigation is warranted. It is likely that the type of conduct required to be reported under the Children, Youth and Families Act is more extensive than the type of conduct required to be reported to the regulator under the Act, as it applies to all sexual and physical conduct, not just conduct resulting in or reasonably likely to result in serious harm. However, any difference is expected to be minimal. Therefore, the cost impacts are likely to be marginal for service providers under the Reference Case as compared with the status quo.

Introduction of Worker and Carer Exclusion Scheme may have labour market impact and costs

The availability of suitable labour in the sector may be impacted by the broader range of conduct that could result in exclusion under the Worker and Carer Exclusion Scheme under the Reference Case, as compared with conduct that could lead to disqualification from the Victorian Carer Register (status quo).

This may result in higher costs for service providers associated with recruitment, for example, as a result of lengthier or more frequent recruitment processes.

Given the low numbers of matters that result in a carer being disqualified currently (as noted above), in relative terms, the numbers of additional workers excluded under the Reference Case are expected to be small and therefore increased costs to providers associated with additional recruitment processes are expected to be minimal.

¹² Department of Families, Fairness and Housing 2021, [Annual report – child protection and family services: additional service delivery data 2020–21](https://www.dffh.vic.gov.au/publications/annual-report) <<https://www.dffh.vic.gov.au/publications/annual-report>>.

Costs to providers – Option A: Prescribe additional conduct to the conduct specified in the Act that can lead to exclusion from the Worker and Carer Exclusion Scheme

Costs of Option A to providers are expected to be higher compared with the Reference Case.

Additional prescribed conduct may increase costs to service providers associated with investigations

It is expected that Option A may increase costs for service providers, compared with the Reference Case. The broader range of conduct introduced under Option A that could lead to exclusion could result in more matters being notified to the regulator, more investigations being undertaken and more matters being referred to a panel for determination than under the Reference Case. This could result in additional costs to providers from having to wait for the regulator to undertake an investigation or a panel to make a determination about a worker or carer they employ or complying with the regulator's investigation. The increased cost impacts associated with likely additional investigations arising from the expanded definition of conduct was noted by stakeholders during consultation workshops.

All out-of-home care service providers are required to comply with the Reportable Conduct Scheme. Under that scheme, out-of-home care providers are required to investigate all allegations of reportable conduct by a worker or carer they employ or engage. While Option A will likely result in a greater number of matters requiring investigation under the Worker and Carer Exclusion Scheme than the Reference Case, the potential increase in costs on providers associated with more investigations by the regulator may be mitigated by provisions in the Act that enable the regulator to consider investigations by other regulatory bodies and under the Reportable Conduct Scheme, as outlined under the Reference Case above. As noted above, this is expected to reduce the burden on service providers that could result from unnecessary duplicative investigations.

Additional prescribed conduct may reduce costs to service providers from managing risks of staff as compared with the Reference Case

More workers or carers may be excluded from working in the out-of-home care sector under Option A than the Reference Case. This could potentially result in cost savings for providers by shifting the onus of determining whether to stand down a worker or carer to the regulator. For example, under the Reference Case, if an out-of-home care worker or carer is found by an out-of-home care provider to have engaged in reportable conduct, and that conduct does not come within scope of the Worker and Carer Exclusion Scheme (such as words, gestures or actions in the presence of a child that is capable of causing a child to think that physical force is about to be used against them or another person), the onus falls to the service provider to determine whether the worker is a risk to a child, and how to address those risks. For example, the provider may need to stand the person down or provide the worker with alternative duties or extra training, all of which would result in additional costs being incurred by providers.

By contrast, under Option A, if the regulator or a panel determines that a worker or carer has engaged in the various types of reportable conduct and poses an unjustifiable risk to children, the regulator or a panel could exclude the person from providing out-of-home care services, meaning the provider would not need to make a decision about retraining a worker or carer or providing a worker or carer with alternative duties, and would not incur costs associated with retraining or alternative duties.

Question 16:

Could the additional proposed conduct for excluding workers in the out-home-care sector result in cost savings for providers by shifting the onus to the regulator to exclude the person from providing out-of-home care services, as opposed to the provider being required to determine a response to the workers' conduct?

More prescribed conduct for the Worker and Carer Exclusion Scheme may have a marginal impact on labour market competition costs

More conduct prescribed for the Worker and Carer Exclusion Scheme under Option A is likely to marginally reduce the amount of available labour in the sector compared with the Reference Case because additional carers may be excluded. As a result, costs for service providers in undertaking recruitment to replace these carers are also expected to be higher. As noted earlier, the number of carers who are disqualified under the current scheme are currently very low. Increases to the number of carers excluded under the Reference Case and also under Option A, in relative numbers, are expected to be low. As such, these costs are expected to be marginally higher under Option A than the Reference Case.

Costs to providers – Option B: Prescribe a narrower definition of additional conduct to the conduct specified under Option A that can lead to exclusion from the Worker and Carer Exclusion Scheme

Costs of Option B to providers are expected to be marginally higher compared with the Reference Case and marginally lower than Option A.

Marginally lower costs to conduct checks under the Worker and Carer Exclusion Scheme if narrower definition of additional conduct prescribed

Under Option B, it is expected that there will be marginally higher cost impacts for service providers than the Reference Case and marginally lower costs than Option A for checking whether prospective workers and carers are excluded under the Worker and Carer Exclusion Scheme. Service providers will need to check with the regulator whether a worker or carer is excluded. Any cost difference in conducting checks for each option will result from additional checks required to replace excluded workers or carers.

Option B may result in more carers being excluded than the Reference Case, but less than under Option A. However, as noted earlier, these numbers are currently very low and any increase to excluded workers from Option A or Option B in relative terms is also expected to be low. As a result cost impacts for conducting checks under Option B are expected to be marginal.

Additional prescribed conduct for the Worker and Carer Exclusion Scheme may have a marginal impact on labour market competition costs

Narrower conduct prescribed for the Worker and Carer Exclusion Scheme under Option B (compared with Option A) may reduce available labour for the sector compared with the Reference Case but is likely to result in fewer workers and carers being excluded than under Option A. As such, Option B may result in increased recruitment costs to find workers and carers than the Reference Case because more prospective employees are likely to be excluded, but reduced recruitment costs compared with Option A.

As previously noted, any increase in the number of workers and carers excluded under Option A or B in comparison with the Reference Case are expected in relative terms to be low. It is therefore expected that there will be marginal impacts to the size of the labour pool between the Reference Case and Options A and B. As such, any potential difference in costs to service providers to undertake recruitment and to employ suitable workers under Option B compared with the Reference Case and Option A will not be significant.

Narrower definition of additional prescribed conduct may result in marginal increased costs to service providers associated with investigations

Similar to Option A, expanding the range of conduct leading to exclusion as compared with the Reference Case could result in more investigations being undertaken and more matters being referred to a panel for determination. As set out above, this could result in additional costs to providers. However, given the prescribed conduct under Option B is narrower than Option A, the

cost impacts associated with likely additional investigations will be lower for service providers as compared with Option A.

Like Option A, the potential increase in costs associated with more investigations by the regulator may be mitigated by provisions in the Act. As set out above, the Act enables the regulator to rely on an investigative report by another regulatory body or under the Reportable Conduct Scheme. This is expected to reduce the burden on service providers that could result from unnecessary duplicative investigations. As described above, this approach is also supported by the guiding principles set out in the Act.

Narrower definition of additional prescribed conduct shifts less of the costs to service providers of managing risks of staff to the regulator as compared with Option A

As set out above in relation to Option A, Option B will give the regulator power to exclude more workers as a result of a broader range of conduct that could lead to exclusion, as compared with the Reference Case, and could therefore also act as a cost saving for providers by reducing the need for providers to manage staff risks.

However, the narrower scope of additional conduct prescribed under Option B, as compared with Option A, means more of the costs associated with managing risks to staff will sit with service providers under Option B than under Option A. This is because there will be more conduct falling outside of the regulator's remit compared with Option A.

Costs to the regulator

In the context of prescribing additional conduct that may lead to exclusion under the Worker and Carer Exclusion Scheme, costs likely to be incurred by the regulator may result from:

- set-up costs, including establishing the necessary systems to operationalise the Worker and Carer Exclusion Scheme
- uplift in staff capacity and capability to undertake additional and wider ranging investigations
- undertaking additional investigations
- establishing and supporting panels to consider a greater range of matters
- responding to requests by service providers to check the database to confirm whether prospective employees are excluded.

These costs are discussed below for the Reference Case and each proposed regulatory option.

Costs to the regulator – Reference Case

Costs to operate the Worker and Carer Exclusion Scheme

The regulator is required to develop the necessary systems and resources to operationalise the Worker and Carer Exclusion Scheme – for example, maintaining the database of excluded workers, conducting investigations and setting up and managing panels. The regulator also incurs costs when providing information and support to service providers when they request a database check for employment or engagement purposes.

Costs to the regulator to transition to the Worker and Carer Exclusion Scheme from the Victorian Carer Register

The regulator will be required to set up new information systems and technology when transitioning from the Victorian Carer Register to the Worker and Carer Exclusion Scheme. The regulator will also incur costs for transitioning, recruiting and training staff for the Worker and Carer Exclusion Scheme, noting, however, that any transition of staff from the Human Services Regulator (which currently administers the Victorian Carer Register) to the new regulator will, to some extent, reduce costs of recruiting and training staff. The current Victorian Carer Register will not transition to the

new regulator but the list of currently disqualified carers will, which will form the basis for the database of excluded workers under the new scheme.

Costs to the regulator to support providers in transitioning to the Worker and Carer Exclusion Scheme

The regulator has functions under the Act to support registered social service providers' compliance with the Act by providing them with information, support and guidance. This will include providing education, information and support to out-of-home care providers about the requirements under the Worker and Carer Exclusion Scheme.

Given the similarities between the Worker and Carer Exclusion Scheme and the Victorian Carer Register, it is expected that these costs will be minimal.

Costs to the regulator to conduct additional investigations and establish and manage panels associated with broader conduct that could lead to exclusion under the Worker and Carer Exclusion Scheme

The Worker and Carer Exclusion Scheme, as set out in the Reference Case, includes a significantly broader range of conduct that can be considered when determining if a worker or carer could be excluded from working in the out-of-home care sector than under the Victorian Carer Register. This is likely to result in significant additional costs relating to the regulator conducting a proportionally greater number of investigations (approximately five to six times more) than under the Victorian Carer Register (status quo).

This could also result in a greater number of matters being referred to a panel for determination about whether a person should be excluded from working in the out-of-home care sector, which would result in additional costs to the regulator to set up and manage the panels (including remunerating panel members) than under the status quo. Panels under the new scheme will have a similar composition to the existing Suitability Panel.

The regulator will be required to establish and support the new panels. This will also result in increased costs to the regulator – for example, staffing costs and panellist fees.

Costs to the regulator – Option A: Prescribe additional conduct to the conduct specified in the Act that can lead to exclusion from the Worker and Carer Exclusion Scheme

Costs of Option A to the regulator are expected to be higher compared with the Reference Case.

The regulator is expected to incur additional costs associated with conducting investigations, setting up and operating the Worker and Carer Exclusion Scheme under Option A as compared with the Reference Case

A broader range of conduct that could lead to a worker or carer being excluded under Option A compared with the Reference Case is likely to result in increased costs to the regulator from:

- the regulator having to conduct more investigations
- a potential need for the regulator to convene and service more panels to consider whether to exclude a worker or carer under the scheme
- conducting additional database checks, due to more requests from providers to search the database as a result of a slightly higher rate in staff turnover due to being excluded; and
- setting up new information systems and technology that cater to an expanded scope of conduct, though any increase in costs is expected to be marginal because the majority of costs will be associated with the initial set-up required under the Reference Case.

Costs to the regulator – Option B: Prescribe a narrower definition of additional conduct in addition to conduct specified in the Act that can lead to exclusion from the Worker and Carer Exclusion Scheme

Costs of Option B to the regulator are expected to be higher compared with the Reference Case but lower than Option A.

Prescribing a broader range of conduct under Option B to the Reference Case may result in similar increased costs to the regulator compared with the Reference Case as outlined above under Option A – for example, in relation to increased investigative costs, increased costs associated with setting up and managing panels, and increased costs to conduct additional database checks.

Option B is expected to have marginally lower costs to the regulator compared with Option A because the narrower definition may reduce the number of investigations and excluded persons in the database than under Option A.

Costs to the regulator under Option B are expected to be similar to Option A in terms of expanding IT systems to support more conduct falling within the Worker and Carer Exclusion Scheme.

Conclusion – costs assessment

Most of the costs to service providers and the regulator from implementing the Worker and Carer Exclusion Scheme are related to the changes introduced in the Act as set out in the Reference Case (refer to Table 20).

For service providers, the increase in costs associated with the transition to the Worker and Carer Exclusion Scheme established by the Act relate to costs associated with an increased number of investigations, additional recruitment costs and additional costs for conducting database checks. The differences in costs for service providers between Options A and B relate to the extent to which the two options result in increased investigations and more workers and carers being excluded.

For the regulator, there will be set-up costs associated with the transition to the Worker and Carer Exclusion Scheme and increased costs associated with more investigations and panels.

Overall, in seeking to introduce additional prescribed conduct, the costs for Options A and B are higher than the Reference Case for the regulator, with Option B being the lower cost option compared with Option A. Although the Reference Case has the most significant impact on service providers and the regulator from a cost perspective, prescribing additional conduct that could result in exclusion, as set out in Option A, has a greater impact on costs but also has the greatest benefit on user safety (benefits are discussed below).

Table 20: Regulation of out-of-home care workers and carers – cost scores relative to the Reference Case

Criterion	Description	Weighting	Option A	Option B
Costs to service providers	Costs to service providers under proposed regulatory options, cost relating to administrative burden associated with responding to investigations and costs relating to managing risks posed by staff and recruitment.	35%	-1	-0.5
Costs to the regulator	Costs to the regulator of conducting investigations, setting up and operating the Worker and Carer Exclusion Scheme.	15%	-2	-1.5
Weighted total	N/A	N/A	-0.65	-0.4

Benefits – regulating out-of-home care workers and carers

Safety and rights of service users

In the context of prescribing additional conduct that may lead to exclusion under the Worker and Carer Exclusion Scheme, benefits include:

- greater protections for children in the out-of-home care sector as a result of more conduct leading to a worker or carer being excluded
- a reduction in the frequency and impact of harms to children in the out-of-home care sector
- regulatory efficiency and effectiveness as a result of shared understanding between service providers, the regulator and other stakeholders as to the conduct that could become the subject of investigations.

These benefits are discussed below for the Reference Case and each proposed regulatory option.

Question 17:

Do you agree these are the main benefits associated with prescribing additional conduct that may lead to a worker being excluded?

If you consider there are different or additional benefits, please provide further detail.

Benefits – Reference Case

The Worker and Carer Exclusion Scheme contributes to user safety by excluding workers and carers whose past or current behaviour demonstrates an ongoing unjustifiable risk of harm to children. The scope of the Worker and Carer Exclusion Scheme as set out in the Act is broader than the current Victorian Carer Register, which may result in more workers or carers being excluded under the new scheme. Its positive impact on user safety was acknowledged by stakeholders during consultations including in feedback received in the survey.

Benefits – Option A: Prescribe additional conduct that can lead to exclusion from the Worker and Carer Exclusion Scheme

Option A has a higher benefit to safety and rights of service users compared with the Reference Case.

Prescribing the various types of reportable conduct under the Child Wellbeing and Safety Act, in Option A, as conduct that could lead to exclusion under the Worker and Carer Exclusion Scheme in addition to conduct set out in the Act is likely to enhance protections for children and young people in the out-of-home care sector. The regulator and panels would be able to consider a greater range of conduct when determining whether a worker or carer poses an unjustifiable risk to children and should be excluded from working or caring in the out-of-home care sector. The proposed conduct included under reportable conduct is intended to capture conduct that has significant and serious impacts to a child. The potential to exclude a greater number of workers and carers who pose an unjustifiable risk of harm to children provides greater protections for children in the out-of-home care sector.

These increased protections could result in both a reduction in the frequency and impact of harms to children in the out-of-home care sector, delivering greater benefits to service users compared with the Reference Case. These increased protections are particularly important given the vulnerabilities experienced by service users in the out-of-home care sector.

Survey results indicated that the proposed conduct under Option A could enable service providers to report instances of neglect. Providers identified this as a current gap in the reporting requirements under the Victorian Carer Register, which only considers matters of sexual or physical abuse of children in care.

All out-of-home care providers are required to comply with the Reportable Conduct Scheme. As such, prescribing the various types of reportable conduct, as proposed under Option A will help provide clarity around what behaviour can result in exclusion under the Worker and Carer Exclusion Scheme. Providers will already be familiar with the types of conduct that come under this definition. The proposed expanded conduct under Option A is expected to improve the overall effectiveness and efficiency of the regulatory scheme because the regulator and service providers are expected to have a shared understanding of the conduct that could become the subject of investigations.

Benefits – Option B: Prescribe a narrower definition of additional conduct to the conduct specified in Option A that can lead to exclusion from the Worker and Carer Exclusion Scheme

Option B includes a narrower definition of additional conduct than Option A and a broader range of conduct than the Reference Case. Option B could result in a broader range of misconduct being investigated under the scheme, which may result in a larger number of workers and carers being found to pose an unjustifiable risk to children and excluded from working or caring in the out-of-home care sector. This will provide better protections and therefore greater benefits for children and young people in out-of-home care as compared with the Reference Case.

The additional protections and benefits associated will be limited under Option B compared with Option A because the additional conduct proposed to be prescribed is narrower under Option B than Option A, meaning that fewer people may be investigated and excluded under Option B than Option A.

Benefits to safety are therefore expected to be lower for Option B than Option A.

Conclusion – benefits assessment

Although the Reference Case has the least impact on the sector, prescribing additional conduct that could result in exclusion, as set out in Option A, has a greater benefit on user safety than the Reference Case and Option B.

Given the service user cohort the proposed regulations are aimed at protecting children and young people experiencing vulnerabilities, the benefits of Option A are important and outweigh the increased cost impacts associated with Option A (refer to

Table 21).

Question 18:

Do you agree that Option A provides greater benefits for service users than the Reference Case and Option B?

Please provide further detail to support your answer.

Table 21: Regulation of out-of-home care workers and carers – benefit scores relative to the Reference Case

Criterion	Description	Weighting	Option A	Option B
Safety and rights of service users	The effect of the regulatory option in ensuring safety and protecting the rights for service users. For example, supporting a safe, inclusive and culturally safe service environment, service delivery and workforce, improving effective governance and monitoring and enforcement responses that prevent avoidable harms to service users, and a strengthened focus on promoting the participation and dignity of service users.	50%	+4	+2
Weighted total	N/A	N/A	+2	+1

Outcome of assessment of Option B

Table 22 shows the weighted scores for the two options against the three assessment criteria and the total scores for each reform area. The scores indicate that Option A is preferable and provides the highest overall benefit relative to the Reference Case.

Table 22: Detailed scores for options for regulating out-of-home workers and carers relative to the Reference Case

Criterion	Weighting	Option A	Option B
Costs to service providers	35%	-1	-0.5
Costs to the regulator	15%	-2	-1.5
Safety and rights of service users	50%	+4	+2
Total (weighted)	100%	+1.35	+0.6

Summary of scores – regulating out-of-home workers and carers

The multi-criteria analysis assessment indicates that Option A scores higher than Option B, as detailed in Table 23, and therefore, is preferred.

Table 23: Summary scores for options for regulating out-of-home workers and carers relative to the Reference Case

Area of reform	Option A	Option B
Worker and Carer Exclusion Scheme	+1.35	+0.6

More detail on the overall impact of the preferred options is set out in **chapter 9**.

11. Preferred options

Summary of preferred options

Table 24 summarises the preferred options for regulations analysed in this Regulatory Impact Statement and that are set out in the draft Social Services Regulations.

Table 24: Summary of preferred options

Option	Summary
Scope of services – one option only	Under this option, the following services are proposed to be prescribed in the regulations as in scope of the Social Services Regulation Act: <ul style="list-style-type: none"> • children, youth and family services funded or provided by the department • disability services funded or provided by the department or funded by the WorkSafe or Transport Accident Commission • supported residential services including privately operated businesses that provide Victorians with accommodation and support with everyday activities • family violence services funded or provided by the department • sexual assault services funded or provided by the department • homelessness support services funded or provided by the department.
Registration requirements – Option A	Under Option A, the proposed registration requirements relate to: <ul style="list-style-type: none"> • the suitability of the provider and its key personnel to provide the service • the suitability of the provider’s arrangements to operate the service • the qualifications, skills or experience of the provider and its key personnel to safely run the service • the suitability of the premises to safely provide the service. These prescribed registration requirements will also outline matters that the regulator may consider when assessing the registration requirements.
Service requirements – Option A	Under Option A, a single set of service requirements and outcomes are proposed to be prescribed; these would apply consistently to all providers of social services that are in scope of the scheme. The service requirements are intended to articulate concrete, tangible actions that service providers are required to take to demonstrate compliance with the Standards. Each Standard is proposed to have several prescribed outcomes and service requirements. Outcomes are included for completeness and do not attract a penalty for non-compliance (refer to chapter 9 for full list of proposed service requirements).
Regulation of out-of-home workers and carers – Worker and Carer Exclusion Scheme Option A	Under Option A, it is proposed to prescribe the following additional conduct that could result in a worker or carer being excluded from being able to work in the out-of-home care sector. <p>The various types of reportable conduct as defined under the Child Wellbeing and Safety Act, which is:</p> <ul style="list-style-type: none"> • sexual offences committed against, with or in the presence of a Worker or Carer Exclusion Scheme service user or a person with the same characteristics, whether or not a criminal proceeding has commenced or concluded

Option	Summary
	<ul style="list-style-type: none"> • sexual misconduct and physical violence, committed against, with or in the presence of a Worker or Carer Exclusion Scheme service user or a person with the same characteristics • any behaviour that causes significant emotional or psychological harm to a Worker or Carer Exclusion Scheme service user or a person with the same characteristics, or • significant neglect of a Worker or Carer Exclusion Scheme service user or a person with the same characteristics. <p>Note that the above proposed conduct is in addition to conduct set out in the Act, which includes conduct that causes or is reasonably likely to cause serious harm or persistent or repeated conduct that results in harm.</p>

Summary of impacts

Scope of services

As outlined previously, no options analysis was undertaken in respect of the scope of services given the policy scope of the scheme was substantially settled through statements in the second reading speech for the Bill.

Impact of proposed registration requirements on service providers

For service providers already regulated by the Human Services Regulator, it is expected that the impact of the proposed new registration from the status quo will be minimal.

All providers that are funded by the department and currently required to be registered under existing schemes (approximately 380 providers registered under the Children, Youth and Families Act, Supported Residential Services Act and Disability Act) will have their registration automatically transferred, resulting in no additional registration costs.

However, it is expected there will be costs associated with registration for some services – for example, department-delivered services, family violence services, sexual assault services, homelessness support services (around 240 providers) and around 250 disability providers with Transport Accident Commission or WorkSafe clients, which will need to apply to the regulator to be registered at the outset of the scheme.

For new providers that wish to offer multiple types of services, a single application can be made to the regulator requesting registration for all services, streamlining the process and reducing the burden on providers potentially having to provide similar information to the regulator multiple times. For these providers, this should help to ease the administrative burden and costs associated with registering under the new scheme.

Smaller providers raised concerns that they may struggle to meet the new registration requirements because the administrative burden and costs associated may represent a larger proportion of their organisational budget compared with larger providers.

Impact of proposed service requirements and outcomes on service providers

Most providers that will be subject to the social services scheme are currently required to comply with the Human Services Standards. The proposed new service requirements articulate specific, concrete and tangible actions that providers must undertake in order to comply with the six new Standards. These new proposed service requirements establish clearer obligations than the current action areas under the Human Services Standards. As a result, the service requirements should be more easily understood, implemented and complied with by providers, relative to the current Human

Services Standards (the status quo). This feedback was provided by some stakeholders during consultations.

Some providers did, however, note the impact of the burden of having to comply with the service requirements, particularly for smaller providers. This will particularly be the case for those service providers that do not currently need to comply with the Human Services Standards, as previously noted – around 250 disability service providers with Transport Accident Commission or WorkSafe clients.

It was also noted that some providers may need to comply with multiple sets of standards – for example, the new Standards, Child Safe Standards and standards under the National Disability Insurance Scheme. Although this may result in increased compliance costs for some providers, it is expected that these costs can be mitigated by provisions under the Act. For example:

- Under the Act, providers have to comply with the service requirements ‘as far as is reasonably practicable’. In practice, it is important to note that this is likely to mean that the impact of complying with a number of the service requirements will be proportionate to the size and complexity of the service being offered. For example, requirements in relation to assessing and reviewing service user needs will be proportionate to the number of service users. Also, a smaller provider is likely to have to implement less onerous practices to identify and address risks of harms to service users during service delivery than a larger provider because a smaller provider may have fewer risks to be managed.
- The Act enables the minister to approve compliance codes setting out a process or procedure about how to comply with a requirement under the regulatory framework. A compliance code may recognise a process or procedure that providers are required to comply with under another regulatory scheme, and therefore have the potential to reduce the burden of complying with multiple regulatory schemes.

Finally, there are likely to be commonalities among standards across regulatory schemes. For example, the proposed Aboriginal Cultural Safety and Inclusion service requirement is modelled on the Aboriginal Cultural Safety Standard under the Child Safe Standards, which came into effect on 1 July 2022. As such, a number of providers will already be complying with this requirement when the social services scheme commences, and providers that are subject to both schemes will not be required to comply with two different Aboriginal cultural safety standards.

Impact of proposed requirements for the Worker and Carer Exclusion Scheme on providers

In the context of prescribing additional conduct that may lead to exclusion under the Worker and Carer Exclusion Scheme, costs incurred by service providers in comparison to the status quo may result from:

- time and effort by service providers to:
 - respond to investigations undertaken by the regulator
 - recruit workers and carers to replace staff who may have been stood down or excluded
 - undertake additional checks to determine whether a prospective employee has been excluded under the Worker and Carer Exclusion Scheme as a result of additional recruitment to replace staff who may have been stood down or excluded
- undertaking assessments to determine whether staff must be stood down and identifying the risk management approach to be taken if a worker or carer is found to pose an unacceptable risk.

Competition effects

During consultations, and as previously noted, some providers raised concerns that the increase in costs associated with the proposed new regulations could result in some providers exiting the sector. Some stakeholders suggested that providers that only provide services to a small number of clients and are already registered under another regulatory scheme, such as providers registered with the National Disability Insurance Scheme, may choose to cease offering services to Transport Accident Commission and WorkSafe clients. This would reduce the number of services available to service users.

As outlined earlier, the Act includes a number of provisions aimed at reducing regulatory burden for registered providers. While it will be a matter for the regulator to determine how the available powers will be used, it is possible that these provisions may ease the burden of some of the registration, compliance and reporting requirements. For example, the regulator may exempt social service providers from proposed registration requirements relating to the suitability of the application for registration, against similar registration requirements under the National Disability Insurance Scheme.

In addition, an analysis of the new Standards and proposed service requirements against the existing Human Services Standards and action areas indicates that the new Standards and service requirements are broadly aligned with the Human Services Standards, and that there are no significant gaps between the existing coverage of the Human Services Standards and the new Standards. As a result, it is not expected that the burden for complying with the new Standards will be substantial for most providers, where they have systems and processes already in place to comply with the Human Services Standards.

Finally, in relation to the Worker and Carer Exclusion Scheme, the inclusion of a broader range of conduct in the proposed regulations could result in more workers being excluded from the out-of-home care sector. However, this impact on providers and the sector must be balanced against the greater protections the introduction of the additional conduct will have for children in the sector.

Impact on the regulator

Impact of proposed registration requirements on the regulator

Costs likely to be incurred by the regulator (as opposed to the costs to government where it is a direct service provider), compared with the status quo, may result from:

- set-up costs, and particularly a new IT platform for registration applications
- the regulator's significantly expanded remit by comparison with the existing Human Services Regulator – for example, with registration requirements extended to homelessness, sexual assault, family violence and department-delivered services and Transport Accident Commission and WorkSafe funded disability services (approximately 490 services in total)
- infrastructure requirements including office space, new technologies and call centre capacity to liaise with service providers
- staff costs – uplift in staff capacity and capability to assess these registration applications and ensure ongoing compliance.

Impact of proposed service requirements and outcomes on regulator

The costs to the regulator from the transition from Human Services Standards (the status quo) to the new Standards include costs relating to:

- increased staffing capacity of the regulator in recognition of its significantly expanded regulatory remit

11. Preferred options

- a new and specialised function to assess compliance with Aboriginal cultural safety and inclusion in the service requirements
- engagement and communications for stakeholders, including guidance material
- the development and implementation of operational policies and procedures, and its approach to compliance and enforcement
- development of guidelines and compliance codes for service providers, providing practical advice about how to comply with the requirements under the scheme, including with the Standards
- staff training and capacity building to ensure staff within the regulator can effectively operationalise the new scheme
- the development of a new end-to-end IT system including as a platform for the registration processes, notification requirements, compliance and enforcement actions.

Impact of proposed requirements for the Worker and Carer Exclusion Scheme on regulator

In the context of prescribing additional conduct that may lead to exclusion under the Worker and Carer Exclusion Scheme, costs likely to be incurred by the regulator in comparison to the status quo may result from:

- set-up costs, including establishing the necessary systems to operationalise the Worker and Carer Exclusion Scheme
- uplift in staff capacity and capability to undertake additional and wider ranging investigations
- undertaking additional investigations
- establishing and supporting panels to consider a greater range of matters
- responding to requests by service providers to check the database to confirm whether prospective employees are excluded.

Impact on service users

The impact of the regulations on providers and the sector must be balanced against the impact of and greater protections that the Act and the regulations provide to service users. The objectives of the Act and the regulations are to protect the rights of service users, to minimise risks of avoidable harms caused by abuse and neglect in connection with the delivery of social services, to promote and support the delivery of safe and effective social services, and to provide confidence to service users and the community in the safety and quality of social services.

Impact of registration requirements on service users

The key elements of the registration requirements go directly to assessing the suitability of the provider and its key personnel, the suitability of premises and qualifications and skills of staff for the purpose of promoting and ensuring safe services are provided to service users.

The preferred option, which has more onerous registration requirements, provides more safeguards for service users and increases the likelihood that services will be safer, reducing risks of abuse, exploitation and neglect for service users. This was reinforced by feedback from stakeholders. Without robust registration requirements in place, it is likely that new service providers would be able to register with lower levels of suitability and safety with respect to premises and services. This would undermine the purpose and objectives of the new regulatory scheme, which focuses on safe service delivery and minimising risks of avoidable harm caused by abuse and neglect in connection with delivering social services.

More robust registration requirements introduce a higher threshold for registration by requiring service providers to meet multiple suitability requirements and demonstrate capacity to comply with

the Standards, which is a fundamental tenet of the scheme. This will help ensure services are delivered by service providers and personnel who are also suitability qualified and at premises that are safe and appropriate. As a result, this option is considered to deliver the greatest benefit to user safety.

Impact of service requirements on service users

The Standards and corresponding service requirements have a key focus on safe service delivery in a broad sense, including concepts of cultural safety and inclusion, Aboriginal cultural safety and inclusion, and psychological and emotional safety. They also focus on service user agency, dignity, respect and rights and promote a safe service environment supporting service user safety, health and wellbeing.

Prescribing service requirements for each of the six Standards is preferable because it will articulate concrete, tangible actions that service providers are required to take to demonstrate compliance with the Standards. By including service requirements under each Standard (for example, through recruitment and screening practices, supporting service users to exercise their rights and responsibilities, and ensuring services are culturally safe), service users will be protected from avoidable harms and services will be better designed to support user health and wellbeing.

Impact of proposed requirements for the Worker and Carer Exclusion Scheme on service users

In relation to the Worker and Carer Exclusion Scheme, additional conduct is proposed to be prescribed in regulations that can result in a worker or carer being excluded. This is the preferred option because it includes enabling single incidents, incidents of significant neglect, or behaviour that causes significant emotional or psychological harm to children and young people in out-of-home care to be grounds for excluding an out-of-home worker or carer will have on the safety and wellbeing of children in the sector.

The benefits of prescribing additional conduct that may lead to exclusion include:

- greater protections for children in the out-of-home care sector as a result of more conduct leading to a worker or carer being excluded
- a reduction in the frequency and impact of harms to children in the out-of-home care sector
- regulatory efficiency and effectiveness as a result of shared understanding between services providers and the regulator as to the conduct that could become the subject of an investigation.

Overall, the analysis in the Regulatory Impact Statement indicates the benefits the proposed new regulatory scheme will have on minimising and avoiding harms for service users, and on promoting, and increasing the protections for service users in the out-of-home care sector will outweigh the cost impacts from compliance on providers and the regulator.

12. Implementation plan

Transitional arrangements

The Social Services Regulation Act includes transitional provisions enabling providers that are already registered under the Disability Act, the Children, Youth and Families Act and the Supported Residential Services (Private Proprietors) Act to have their registration automatically transferred when the scheme commences. Providers that are currently registered will not be required to seek a new registration in relation to the particular services for which they are already registered.

This will be set out in transitional regulations specifying the social services currently registered under existing legislation (Children, Youth and Families Act, Disability Act, Supported Residential Services (Private Proprietors) Act), will be deemed equivalent social services for the purposes of having their registration automatically transferred under the Act. These regulations will reduce regulatory burden as providers will not need to apply for registration for these services. It also enables continuity of service provision to social service users.

Section 135 of the Act includes an offence for providing a social service without being registered. As previously stated, existing social service providers (and new providers) will need to register once the scheme commences. Transitional regulations will provide a period of time where existing service providers that are not currently required to be registered will not be subject to the offence in section 135 while the Regulator determines the application. This recognises there will be a period where some existing providers transition into the new scheme, and aims to avoid any interruption to service provision where an organisation is currently offering services, but is not required to register.

Overall implementation approach

The regulator will be responsible for compliance and enforcement in relation to the Act and the proposed regulations. This will include providing information and guidance to social service providers about their obligations under the new arrangements before the scheme begins.

It is expected that the new regulator will be appointed later in 2023. This will help support the transition to the new scheme, allowing the regulator to:

- establish the necessary staffing and infrastructure to operate effectively, including for example, additional staff (surge workforce over and above the existing staffing profile) to assess applications for registration and monitor compliance with registration requirements
- develop its compliance and enforcement approach, and operational policies and procedures
- develop guidelines and compliance codes under the Act
- engage and communicate with the social services sector about the new requirements
- develop key administrative processes and forms (for example, in relation to registration)
- develop guidance for providers about how to comply with the Act.

From scheme commencement, it is expected that the regulator will implement the proposed regulations, having particular regard to the following guiding principles:

- protection of service users as a paramount consideration
- making decisions using an intelligence-led and integrated approach that is proportionate to risk and minimises regulatory burden
- working collaboratively with other relevant agencies, service users, registered service providers and the community to ensure the safe delivery of social services

- providing service providers, where appropriate, with guidance and education regarding their duties and obligations under the Act, including how they may demonstrate compliance.

In addition to establishing guiding principles to inform the regulator's approach, the Act also gives the regulator powers to issue guidelines in relation to any matters relevant to the exercise of its functions. This will allow the regulator to support service providers during the transition to the new scheme.

Finally, if a direction or statement of expectations from the minister is issued, this would also provide guidance to the regulator and service providers on the government's regulatory expectations and strategic requirements.

13. Evaluation strategy

Statutory review of the Scheme

The Social Services Regulation Act provides that, in the fourth year of operation of the Act, the minister must conduct a review of the first three years of the Act's operation. That is, the minister will conduct a review of the Act in 2027–28. The Act also provides that the minister must table the review before each House of Parliament. This review is expected to encompass consideration of the operation of both the Act and regulations, noting that the regulations go to key areas of detail such as the scope of the Scheme, and critical elements of the scheme are set out in regulations. The precise scope of the review and the evaluation strategy will be determined as part of the legislative review process.

There are also a number of reporting obligations placed on the regulator by Part 2 of the Act:

- Section 13 requires the regulator to collect and analyse information about whether the regulator's objects are being achieved.
- Section 19 requires the regulator to provide an annual report to the minister that includes a review of the activities and outcomes of the regulator in performing its functions.
- Section 20 allows the minister to request reports from the regulator about the operation of the regulator's functions and powers or about other information required by the minister (except where the report was on a current regulatory matter if the report might compromise an investigation under the Act).

The *Victorian guide to regulation* explains that mid-term evaluations (within five years of regulations commencing) are generally required where the regulations are high impact or have particularly uncertain impacts. As the 2028 review of Act would consider the regulations, it would likely acquit the mid-term evaluation requirement.

Finally, the *Gender Equality Act 2020* also places obligations on the department to evaluate and assess the impact of the regulations by undertaking a gender impact assessment. It is expected that the gender impact assessment would form part of the review of the Act. A gender impact assessment must:¹³

- assess the effects that the policy, program or service may have on people of different genders
- state how the policy, program or service will be developed or varied to meet the needs of people of different genders
- adopt an intersectional approach to that analysis and consider how gender inequality may be compounded by disadvantage or discrimination that a person may experience on the basis of other attributes.

Sunsetting of the scheme regulations

The Subordinate Legislation Act provides that regulations have a duration of no more than 10 years (that is the regulations 'sunset' after 10 years). This means these regulations will be reviewed and a Regulatory Impact Statement prepared in 10 years' time (2033). This process will involve a re-examination of whether the nature and extent of the problems continue to require the response under the social services regulations.

¹³ *Gender Equality Act 2020* (Vic), section 9.

14. Stakeholder consultation

Social Services Regulation Taskforce

During the debate on the Bill in Parliament, the government committed to establishing a taskforce to support development of the regulation process ahead of the scheme's commencement.

The announcement included a commitment to the taskforce having an independent chair to represent both service providers and users to advise the government on other issues including further detail around the service standards and scheme coverage in the regulations.

The taskforce has met regularly since April 2022. It has 11 members, including representatives from the social services sector, service user advocates and members with regulatory expertise. It has an independent chair (Adjunct Professor Susan Pascoe). The government has been represented by a co-chair (Josh Bull MP) until November 2022, and an independent observer from the minister's office from April 2023.

The terms of reference for the taskforce state that it will provide strategic advice that incorporates the perspectives of social service users, providers and those with expertise in contemporary regulatory practice to inform (among other things):

- the development of draft regulations critical to the effective implementation of the regulatory scheme including:
 - definitions of prescribed social services that will be subject to the regulatory scheme to ensure the scope of the scheme operates as intended
 - outcomes and service requirements for each of the six Social Services Standards provided for in the Social Services Regulation Act
- the Regulatory Impact Statement.

The terms of reference also state that the taskforce will be a key consultation mechanism with the social services sector.

Consultation undertaken to inform the Regulatory Impact Statement

Consultation with the taskforce

The department has engaged the taskforce throughout developing the draft regulations and the Regulatory Impact Statement process. The department prepared consultation papers corresponding with each of the proposed key draft regulations and circulated these to taskforce members prior to each meeting, to inform discussions at the meetings.

The taskforce has had input into a range of regulations that are critical to the operation of the new scheme, including proposed draft regulations for the:

- scope of services
- service requirements and outcomes
- registration requirements
- notification requirements.

Details of taskforce meetings and consultations undertaken by the independent taskforce chair are outlined in Table 25.

Table 25: Taskforce engagement, 2022–2023

Taskforce meetings and related engagement activities	Date
Taskforce meeting 10 <i>Taskforce reflections on its role and achievements.</i>	5 September 2023
Taskforce meeting 9 <i>Key themes and feedback on the consultation process.</i> <i>Discussion on any proposed changes to draft regulations based on feedback.</i>	17 July 2023
Taskforce meeting 8 <i>Taskforce reflections on the Regulatory Impact Statement.</i> <i>Communication and engagement activities, including taskforce members' engagement to support Regulatory Impact Statement consultation.</i>	16 May 2023
Taskforce independent co-chair consultation with the Victorian Council for Social Services	8 March 2023
Taskforce independent co-chair consultation with the Victims of Crime Commissioner	6 March 2023
Taskforce meeting 7 <i>Discussion regarding updates to proposed notification requirements and prescribed outcomes and service requirements.</i>	13 February 2023
Taskforce independent co-chair consultation with the Commissioner for Aboriginal Children and Young People	14 November 2022
Human Services and Health Partnership Implementation Committee	4 November 2022
Taskforce independent co-chair update to Human Services and Health Implementation Committee roundtable	3 November 2022
Taskforce independent co-chair consultation with the Victorian Disability Worker Commissioner	18 October 2022
Taskforce meeting 6 <i>Further discussion in relation to section 47 notification requirements including proposed prescribed requirements.</i> <i>Discussion about updates to prescribed outcomes and service requirements.</i>	13 October 2022
Taskforce meeting 5 <i>Discussion regarding updates to proposed registration requirements and notification requirements.</i>	15 August 2022
Human Services and Health Partnership Implementation Committee	4 August 2022
Taskforce out-of-session meeting to discuss proposed registration requirements	29 July 2022
Taskforce independent co-chair consultation with the Victorian Disability Worker Commissioner	28 July 2022
Taskforce independent co-chair consultation with the Commissioner for Senior Victorians	21 July 2022
Taskforce meeting 4 <i>Discussion in relation to proposed registration requirements, notification requirements, options for prescribed fee levels and prescribed information sharing arrangements.</i>	17 June 2022

Taskforce meetings and related engagement activities	Date
Taskforce independent co-chair consultation with the Commissioner for Children and Young People	9 June 2022
Human Services and Health Partnership Implementation Committee	2 June 2022
Taskforce meeting 3 <i>Further discussion on prescribed scope of services and outcomes and service requirements.</i>	17 May 2022
Taskforce meeting 2 <i>Discussion in relation to the prescribed scope of services and service requirements and outcomes corresponding to the six social service Standards.</i>	6 May 2022
Taskforce meeting 1 <i>Overview and discussion of the social services regulatory scheme and key timelines.</i>	4 April 2022

Consultation with the sector

In addition to ongoing consultation with the taskforce, the department, with the support of taskforce members, engaged with the various social services sectors through a combination of general and sector-specific information and consultation sessions to inform the draft regulations, and the Regulatory Impact Statement.

Engagement on the Regulatory Impact Statement involved a combination of one-one-one interviews, workshops and surveys and sought to determine:

- the impact of proposed reform options, including on service providers, services users, workforce and compliance
- current and future regulatory burden
- current compliance costs and how the proposed options may affect these.

Through consultation with stakeholders, information about the quantifiable impact of proposed regulations on the sector, including compliance and administrative burdens, was gathered and analysed to support the impact assessment and inform the Regulatory Impact Statement. A list of all stakeholder engagement undertaken is set out in Table 26.

Table 26: Overview of stakeholder engagement, 2022–2023

Consultation/information session	Date
Human Services and Health Partnership Implementation Committee	2 March 2023
Community visitors – disability services	28 February 2023
Office of the Public Advocate	3 February 2023
Victoria Aboriginal Community Services Association Ltd	28 October 2022
Supported residential services	27 October 2022
Victorian Ombudsman on proposed specific elements of the supported residential services regulations	25 October 2022
Victorian Disability Worker Commissioner	18 October 2022
Commissioner for Children and Young People	7 October 2022
Supported residential services	9 September 2022

14. Stakeholder consultation

Consultation/information session	Date
Aboriginal Community Controlled Organisations	30 August 2022
Community visitors – supported residential services	29 August 2022
Supported residential services	25 August 2022
General information session – social service providers	19 August 2022
Centre for Excellence in Child and Family Welfare – out-of-home care sector consultation on Worker and Carer Exclusion Scheme proposed regulations	7 December 2022
Centre for Excellence in Child and Family Welfare – expert advisory group on Worker and Carer Exclusion Scheme proposed regulations	2 December 2022
Centre for Excellence in Child and Family Welfare – Quality Learning Circle sub-group on Worker and Carer Exclusion Scheme proposed regulations	28 October 2022
Victorian Healthcare Association	11 August 2022
Centre for Excellence in Child and Family Welfare Quality Learning Circle – general reform update	9 August 2022
Regulatory Impact Statement consultation – Centre for Excellence in Child and Family Welfare	4 August 2022
Regulatory Impact Statement consultation – sexual assault services sector	2 August 2022
Regulatory Impact Statement consultation Worker and Carer Exclusion scheme regulations	2 August 2022
Victorian Disability Worker Commissioner	28 July 2022
Regulatory Impact Statement consultation – disability sector	27 July 2022
Information session and Regulatory Impact Statement consultation – homelessness sector	26 July 2022
Information and consultation session – sexual assault services sector	26 July 2022
Regulatory Impact Statement consultation with CEO, Family Care	21 July 2022
Commissioner for Senior Victorians	21 July 2022
Regulatory Impact Statement consultation – family violence sector	19 July 2022
Aboriginal Community Controlled Organisations	18 July 2022
Consultation with the Victorian Disability Advisory Council	15 July 2022
Consultation and information session – No to Violence	29 June 2022
Consultation and information session – specialised family violence services	28 June 2022
Consultation with Centre for Excellence in Child and Family Welfare Quality Learning Circle on registration	27 June 2022
Consultation with Centre for Excellence in Child and Family Welfare Quality Learning Circle on service outcomes and requirements	25 June 2022
Office of the Public Advocate	15 June 2022
National Disability Services	15 June 2022
General information session – social service providers	14 June 2022

Consultation/information session	Date
Consultation with the Centre for Excellence in Child and Family Welfare Quality Learning Circle on service outcomes and requirements	25 May 2022
General information session – social service providers	25 May 2022
Consultation with Quality Learning Centre on scope of services	24 May 2022
Consultation – expert users panel, Safe and Equal	19 May 2022
Commission for Children and Young People	18 May 2022
Human Services and Health Partnership Implementation Committee	10 February 2022

Social Services Regulation Taskforce

Chair

Susan Pascoe AM
Independent Co-Chair

Taskforce members

Colleen Pearce, The Public Advocate
David Tennant, CEO, FamilyCare
Michele Lonsdale, Deputy CEO, Centre for Excellence in Child and Family Welfare
Expert Advisory Panel Member, Safe and Equal
Deborah Di Natale, CEO, Council to Homeless Persons
Kathleen Maltzahn, CEO, Sexual Assault Services Victoria
Linda Bamblett, CEO, Victorian Aboriginal Community Services Association Limited
Sarah Fordyce, State Manager National Disability Services Victoria
Simon Corden, Public Policy Expert
Tania Farha, CEO, Safe and Equal
Juanita Pope, Board member, Victorian Council of Social Services

Appendix 1: Draft regulations not analysed in the Regulatory Impact Statement

Registration

Description	Rationale
<p>Foster carers and carers</p> <p>Requirements for foster care services and certain out-of-home care services to have systems and processes in place to ensure certain matters are considered before approving a person to act as a foster carer.</p>	<p>This mirrors the current provisions in the <i>Children, Youth and Families Act 2005</i> and regulations. It imposes no additional burden.</p>

Provisional registration

Description	Rationale
<p>Request for further information</p> <p>Under the Social Services Regulation Act, where a social service provider applies to vary or revoke a condition on registration, the regulator can request further information to inform its decision to vary or revoke the condition; information must be provided within 14 days.</p>	<p>This is an administrative matter, with the substantive obligation imposed by the Act.</p>
<p>Provisional registration</p> <p>This draft regulation provides that:</p> <ul style="list-style-type: none"> • the regulator may grant provisional registration under the Act to a social service provider where the regulator is satisfied that: <ul style="list-style-type: none"> ○ the provisional registration would enable services to be provided to a service user that would not otherwise be provided with that service during the period of the proposed provisional registration ○ failure or refusal to grant the provisional registration would increase a risk to the safety of that service user. 	<p>This does not impose any additional burden on a provider. It allows for registration to be granted on a provisional basis where it is time critical to protect the safety of a service user.</p>

The register

Description	Rationale
<p>Information to be included in the register</p> <p>The regulator is required under the Act to maintain a register of social services. Under the Act, the regulator must publish a range of information including about the social service provider.</p> <p>In addition, the proposed regulations prescribe that the register includes:</p> <ul style="list-style-type: none"> the current regulated service types¹⁴ (sub-categories) that registered providers are offering the location where registered providers are currently offering each regulated service type details of any enforceable undertakings given by the provider in connection with a failure to comply with the Child Safe Standards, and details of any convictions or findings of guilt for offences against Part 6 of the <i>Child Wellbeing and Safety Act 2005</i> that relate to the Child Safe Standards. This reflects that the regulator will also be responsible for compliance and enforcement of both the new Social Services Standards and the Child Safe Standards. 	<p>This regulation is administrative in nature and relates to information about providers that the regulator will include on the register.</p>
<p>Decision not to publish information in the register</p> <p>The draft regulations mean that the regulator may decide not to publish information on the register that may:</p> <ul style="list-style-type: none"> identify, or lead to the identification of, a service user or a member of staff of a social service provider or the street address of premises from which social services are provided compromise the privacy, safety or protection of a service user or member of staff of the social service provider. 	<p>This does not impose additional burden on providers and is necessary to protect the privacy and safety of social service users – for example, where service users may be vulnerable due to the threat of family violence.</p>

Notifications

Description	Rationale
<p>Notification of organisational matters</p>	<p>While this imposes some regulatory burden on providers, most of the notification responsibilities are imposed by the Act, not the regulations. In addition, these notification obligations are tied to</p>

¹⁴ Within each category of service, there are several service types. For example, disability residential services are a service type within the disability service category.

Description	Rationale
<p>The draft regulations set out matters that providers must notify the regulator of, additional to what is specified in the Act – for example, any revocation, restrictions, sanctions or conditions placed on the provider’s registration.</p> <p>The Act requires notification of prescribed criminal convictions of key personnel. The draft regulations defines this to include, for example, the chief executive officer and those responsible for the provider’s executive decisions. Prescribed criminal convictions include those for an indictable offence or any offence of fraud or dishonesty punishable by three months or more imprisonment.</p> <p>The draft regulations also set out timeframes within which providers must notify the regulator – for example, 28 days for organisational changes that materially impact service delivery, and seven days for notification of criminal convictions, or for staffing changes that materially impact service delivery at a supported residential service or organisation without a committee of management.</p>	<p>registration requirements and would be notifiable under provisions in the Act requiring notification of information provided on registration. Further, requiring notification of this information is considered reasonable and necessary, given the paramount consideration for the regulator, which is the protection of service users.</p>
<p>Notifiable incidents</p> <p>The draft regulations require incidents resulting in serious injury of a supported residential service user and unexpected deaths to be notified to the regulator.</p>	<p>While this imposes some regulatory burden, unexpected deaths are not expected to require a large volume of reporting, and the reporting of serious injuries in supported residential services settings is in line with an existing requirement for this sector.</p>
<p>Request for further information</p> <p>Where the regulator requests further information from a provider about an organisational or incident notification, this must be provided within 14 days.</p>	<p>This is an administrative matter that does not impose an additional burden on the provider. Social service providers are already required to provide information to the department or the Human Services Regulator in similar timeframes.</p>

Worker and Carer Exclusion Scheme

Description	Rationale
<p>Scheme services and service providers</p> <p>Provides for the scope of services and scope of providers that the Worker and Carer Exclusion Scheme will apply to including foster care services, services caring for children in an out-of-home care residence and services provided to children in an out-of-home care residence. Also provides for scheme service providers, being the body that provides a scheme service and employs or engages a worker or carer to provide a scheme service.</p>	<p>The scope of services and service providers covered by the scheme mirrors the current scope of the Victorian Carer Register.</p>

Description	Rationale
<p>Exclusion for volunteer workers other than foster carers Excludes volunteer workers in the out-of-home care sector other than foster carers.</p>	<p>This mirrors the scope of the current Victorian Carer Register.</p>
<p>Regulatory entities The draft regulations set out the bodies to be prescribed as regulatory entities. The regulator may, for example, decide not to investigate the conduct of a worker or carer in the out-of-home care sector where a regulatory entity is already investigating a matter. Regulatory bodies include, for example:</p> <ul style="list-style-type: none"> • bodies in states and territories with oversight of Working with Children Check schemes • the Commission for Children and Young People • the Disability Worker Registration Board and Commission • the Victorian Institute of Teaching (for workers and carers who are also teachers). 	<p>This may avoid duplicative investigations and reduce regulatory burden. There are no obligations placed on regulatory entities that are prescribed.</p>
<p>Prescribed exclusion decisions The draft regulations prescribe certain decisions made under another regulatory scheme to be automatic exclusion decisions under the scheme.</p>	<p>This imposes no additional burden on social service providers. It ensures that workers who are found unsuitable to continue working by another regulator to also be unsuitable to work in the out-of-home care sector. Only decisions based on similar conduct and similar risks to service users will be prescribed.</p>
<p>Application for removal from the exclusion database The draft regulations set out the circumstances in which a person can apply to a panel for the removal of information about the person from the scheme database maintained by the regulator:</p> <ul style="list-style-type: none"> • at least 12 months has passed since the worker or carer was placed on the database • the applicant's circumstances have changed, and the applicant no longer poses an unjustifiable risk of harm. <p>The exclusion was determined on the basis of conduct that was the subject of:</p> <ul style="list-style-type: none"> • a disciplinary or regulatory finding that was quashed or set aside after the exclusion • a finding of guilt for an offence that was later quashed or set aside. 	<p>This imposes no additional regulatory burden on providers. It properly balances the rights and interests of workers and carers with the protection of service users. It allows the worker or carer to work again in circumstances where the regulator determines that they do not pose an unjustifiable risk to service users.</p>
<p>Notification to employer of investigation or referral</p>	<p>Imposes no additional burden on providers. The obligation to notify is imposed by the Act. The additional imposition on workers and carers is</p>

Description	Rationale
<p>The draft regulations prescribe the time limits for a worker or carer to notify their employer of an investigation or referral – as soon as reasonably practicable and within two days of receiving the notice.</p>	<p>necessary to protect service users and can be avoided by acting within the law.</p>
<p>Notification to employer of investigation or referral</p> <p>The draft regulations set out that a worker or carer, when notifying their employer as required by the Act, must include the following information:</p> <ul style="list-style-type: none"> • the regulator is investigating the person’s conduct • the regulator has or has not referred a matter relating to the person’s conduct to a panel for determination. 	<p>This does not impose an additional burden on social service providers. The obligation to notify is imposed by the Act. The draft regulation merely details the contents. Any additional burden imposed on workers and carers is necessary to protect service users. This burden can be avoided by acting within the law.</p>

Enforcement

Description	Rationale
<p>Infringement notices</p> <p>The draft regulations prescribe offences for which the regulator can issue an infringement notice, and the penalties involved. These are set out in Schedule 3.</p> <p>The regulator (or an authorised officer) can issue an infringement notice to a social service provider where the regulator determines that a minor breach of the Act or regulations is better dealt with by paying a fine rather than court proceedings.</p>	<p>The power to issue infringement notices is provided by the Act. The amount of an infringement penalty is less than the maximum penalty a court could impose. Infringement finalises a matter more quickly and efficiently than prosecution, thus reducing the burden on providers, the regulator and the judicial system.</p> <p>Penalties can be avoided by acting lawfully.</p>

Information collection, use and disclosure

Description	Rationale
<p>Confidentiality Notices – form</p> <p>The draft regulations set out the form for a Confidentiality Notice issued under section 201 of the Act, prohibiting disclosure of a restricted matter.</p>	<p>This is an administrative matter that standardises the format and content of the Confidentiality Notice, which is issued by the regulator. The substantive burden of confidentiality is imposed</p>

Description	Rationale
	by the Act. It imposes no regulatory burden on social service providers.

Supported residential services

Note – these proposals are listed for completeness but will be the subject of a separate process.

Description	Rationale
<p>Residential and service agreements</p> <p>The draft regulations set out the information to be included in a residential and services agreement between a supported residential service and a service user. This includes matters such as:</p> <ul style="list-style-type: none"> • fees and services provided • how personal support services are planned • how the agreement may be ended • when the provider can give the resident a notice to vacate • complaint receipt and resolution processes. 	<p>This mirrors the current provisions in the <i>Supported Residential Services (Private Proprietors) Act 2010</i> and regulations. It imposes no additional burden.</p>
<p>Interim support plans – offence provision</p> <p>The draft regulations set out that the provider of a supported residential service must prepare an interim support plan within 48 hours after the person becomes a resident of the supported residential service.</p> <p>The interim support plan for a resident must include:</p> <ul style="list-style-type: none"> • the immediate health and personal support needs of the resident • the services to be provided to the resident to assist with those needs. 	<p>This mirrors the current provisions in the <i>Supported Residential Services (Private Proprietors) Act</i> and regulations. It imposes no additional regulatory burden.</p>
<p>Implementation of interim support plans</p> <p>The draft regulations require the provider of a supported residential service to ensure the interim support plan is carried out in accordance with the plan.</p>	<p>This mirrors the current provisions in the <i>Supported Residential Services (Private Proprietors) Act</i> and regulations. It imposes no additional regulatory burden.</p>
<p>Availability of an interim support plan</p>	

Description	Rationale
<p>The draft regulations require the provider of a supported residential service to make the interim support plan available, on request, to the resident, the person nominated and the resident's health service providers.</p>	
<p>Ongoing support plan – offence provision</p> <p>The draft regulations set out the requirement that a provider of a supported residential service must ensure that a review of an interim support plan and of an ongoing support plan is in writing and prepared within 28 days after the person becomes a resident. The review of the interim support plan and the preparation of the ongoing support plan must be carried out in consultation with the resident and, if appropriate, the person nominated and the resident's health service providers.</p> <p>An ongoing support plan for a resident must include:</p> <ul style="list-style-type: none"> • the ongoing health and personal support needs of the resident • the services to be provided to the resident to assist with those needs. 	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Review of an ongoing support plan – offence provision</p> <p>The draft regulations require that a provider of a supported residential service must ensure a resident's ongoing support plan is reviewed and updated at least once every six months.</p> <p>If the resident's health and personal support needs change, the provider of the supported residential service must ensure that the ongoing support plan is reviewed and changed as necessary to meet the changed needs of the resident.</p> <p>The provider of a supported residential service must ensure that any change to a resident's ongoing support plan is prepared in consultation with the resident and, if appropriate, the person nominated and the resident's health service providers.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional burden and is necessary to protect service users.</p>
<p>Consultation with a resident's health service providers – offence provision</p> <p>The draft regulations require the provider of a supported residential service to ensure consultation occurs with the resident's health service providers in the preparation of:</p> <ul style="list-style-type: none"> • a resident's ongoing support plan • any changes made to that plan. 	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Implementation of an ongoing support plan – offence provision</p> <p>The draft regulations require that a provider of a supported residential service must ensure a resident's ongoing support plan is complied with.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>

Description	Rationale
<p>Availability of ongoing support plans – offence provision</p> <p>The draft regulations require that a provider of a supported residential service must ensure a resident’s ongoing support plan is made available to:</p> <ul style="list-style-type: none"> • the resident • the person nominated • the resident’s health service providers. 	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Notification of a deterioration in health status – offence provision</p> <p>The draft regulations require that a provider of a supported residential service must ensure the person nominated, or the resident’s guardian, is informed as soon as practicable of any significant sign of deterioration in the health status of the resident.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Notification of injury – offence provision</p> <p>The draft regulations require that a provider of a supported residential service must ensure the person nominated, or the resident’s guardian, is informed as soon as practicable of any injury to the resident.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Notification of risk-taking behaviour – offence provision</p> <p>The draft regulations require that a provider of a supported residential service must ensure the person nominated, or the resident’s guardian, is informed as soon as practicable of any risk-taking behaviour by the resident that threatens the safety of the resident or other residents or staff.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Notification of a relocation of a resident – offence provision</p> <p>The draft regulations mean that a provider of a supported residential service must ensure the person nominated, or the resident’s guardian, is informed as soon as practicable of any proposal to relocate the resident to another bedroom within the supported residential service.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Notification of an intention to give a resident a notice to vacate – offence provision</p> <p>The draft regulations require a provider of a supported residential service must ensure the person nominated, or the resident’s guardian, is informed as soon as practicable of any intention to give the resident a notice to vacate.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Notification of death – offence provision</p> <p>The draft regulations require that a provider of a supported residential service must ensure the person nominated, or the resident’s guardian, is informed as soon as practicable of the death of the resident.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private</p>

Description	Rationale
	Proprietors) Act and regulations. It imposes no additional regulatory burden.
<p>Medication of residents – offence provision</p> <p>The draft regulations require that a provider of a supported residential service must take reasonable steps to maintain adequate standards of storage, distribution and administration of residents’ medication.</p>	This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.
<p>Storage of medication</p> <p>The draft regulations prescribe what constitutes reasonable steps for the storage of residents’ medication. This includes requirements like storing medication in a lockable facility, at the appropriate temperature, and the circumstances where medication must be returned to a resident, or be removed from the supported residential service.</p>	This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.
<p>Medication distribution and administration</p> <p>The draft regulations prescribe what constitutes reasonable steps for the distribution and administration of residents’ medication. This includes requirements like:</p> <ul style="list-style-type: none"> • confirming that the medication is being provided to the correct resident, at the correct dose • notifying the resident’s health practitioner if the medication couldn’t be administered to the resident for any reason • the circumstances where medication must be returned to a resident • that medication must be removed when a resident leaves the facility • maintaining medication records about, for example, the name of medication, dose, strength, frequency and date commenced. 	This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.
<p>Minimum staff requirement – offence provision</p> <p>The draft regulations require a provider of supported residential service must ensure an adequate number of appropriately trained staff are employed in the supported residential service.</p> <ul style="list-style-type: none"> • The provider of a supported residential service must, under the draft regulations, ensure an adequate number of appropriately trained staff are on duty in the supported residential service to ensure the provider can comply with the personal support requirements in the Act and the regulations. 	This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional burden and is necessary to protect service users.
<p>Minimum staff requirement – details</p>	This mirrors the current provisions in the Supported Residential Services (Private

Description	Rationale
<p>The draft regulations prescribe minimum staffing levels such as the ratio of staff to residents on weekdays and after hours, the qualifications of staff, and that there are sufficient staff to meet residents' personal support needs.</p>	<p>Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Resignation, termination of employment or absence of personal support coordinator The draft regulations require the provider, among other things, to notify the regulator if a personal support coordinator resigns, and to employ a new personal support coordinator as soon as practicable, and an acting coordinator in certain circumstances.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Qualifications The draft regulations prescribe the qualifications that certain supported residential service staff are required to have, in accordance with the minimum staffing ratios.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Qualifications of ancillary staff The draft regulations prescribe that ancillary staff are to be appropriately trained and hold an appropriate qualification to perform that function.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Staff to have first aid training The draft regulations prescribe the qualifications that staff responsible for providing first aid are required to have.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Requirement to keep records of prescribed incidents – offence provision The draft regulations require that a provider of a supported residential service must maintain an accurate and up-to-date record of prescribed incidents that complies with draft sub-regulation (2) and draft regulation 8.31.</p> <ul style="list-style-type: none"> • A record under draft sub-regulation (1) must include the following: • a description of the incident • the action taken in response to the incident • the date, time and name of any person notified of the incident 	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>

Description	Rationale
<ul style="list-style-type: none"> the printed name and signature of the person making the record of the incident. <p>For the purposes of the draft regulations, a prescribed incident is any event that threatens the safety of a resident or staff.</p>	
<p>Requirement to keep records of resident information – offence provision</p> <p>The draft regulations require that a provider of a supported residential service must maintain an accurate and up-to-date record of resident information and lists the necessary information. This includes:</p> <ul style="list-style-type: none"> details about the resident (such as date of birth, languages spoken) the resident’s relative or next of kin, guardian or person nominated the resident’s residential and support agreement the resident’s personal support plan any documents prepared in relation to the taking or retaining of a security deposit, a fee in advance, a reservation fee or an establishment fee. 	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Requirement to keep records of staff information</p> <p>The draft regulations require a provider of a supported residential service to:</p> <ol style="list-style-type: none"> Maintain an accurate and up-to-date record of staff information that complies with subsection (2) and regulation 8.31. Failure to do so is an offence. A record under draft sub-regulation (1) must include the following information in relation to each current and former staff member: <ul style="list-style-type: none"> the person's name the date the person’s employment commenced at the supported residential service a copy of any relevant qualifications or certificates of completed training of the employee (if applicable) the person’s employment position at the supported residential service the date of issue and the reference number of any criminal record check the date of termination of employment (if applicable). 	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Requirement to keep records of staff rosters – offence provision</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private</p>

Description	Rationale
<p>The draft regulations require a provider of a supported residential service to maintain an accurate and up-to-date record of staff rosters.</p> <p>A record of staff rosters must include the following information:</p> <ul style="list-style-type: none"> • the name of the supported residential service • the commencement date and end date for the period to which the roster applies • the days, times and number of hours to be worked by each employee during the roster period and the capacity in which the employee is rostered. 	<p>Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Provider of a supported residential service to keep records for seven years – offence provision</p> <p>The draft regulations require a provider of a supported residential service to retain the records kept at the supported residential service for seven years.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>How records are to be kept</p> <p>The draft regulations require records to be kept:</p> <ul style="list-style-type: none"> • in the English language • in a secure location that is readily accessible by authorised officers at any time for the purposes of monitoring compliance with the Act and regulations. <p>This provision also sets out how records of incidents must be maintained, either in:</p> <ul style="list-style-type: none"> • a bound book with consecutively numbered pages • a loose-leaf system in which each incident, and each page of a report of the incident, is consecutively numbered, or • a database on a computer maintained at the supported residential service in which each incident is assigned a unique number. 	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Prescribed amount of reportable transactions and prohibited transactions</p> <p>The draft regulations provide that:</p> <ul style="list-style-type: none"> • for the purposes of the definition of <i>reportable transaction</i> in section 213 of the Act, the prescribed amount is \$250 • for the purposes of section 215(1)(a) and (d) of the Act, the prescribed amount is \$250 • for the purposes of section 215(1)(e) of the Act, the prescribed amount is \$850. 	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>

Description	Rationale
<p>Prescribed information in a statement acknowledging receipt of a security deposit or fee</p> <p>The draft regulations provide that, for the purposes of section 245 of the Act, the prescribed information is:</p> <ul style="list-style-type: none"> • the name of the resident and the name of the person from whom the money is received • the name of the supported residential service • the date of payment • the amount paid • the purpose of the payment • any terms and conditions with respect to refunding the money • the name, account number, authorised deposit-taking institution and branch at which the money has or will be deposited. 	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>
<p>Notice to vacate</p> <p>The draft regulations provide that for the purposes of section 259(2) of the Act, the prescribed time is the next business day after the notice to vacate is given.</p>	<p>This mirrors the current provisions in the Supported Residential Services (Private Proprietors) Act and regulations. It imposes no additional regulatory burden.</p>

Appendix 2: In-scope social services

- **Some services delivered by the department**, including child protection services and secure welfare services.
- **Out-of-home care services** for children and young people established under the *Children, Youth and Families Act 2005* or similar services provided or funded by the department including services in relation to:
 - foster care
 - kinship care
 - permanent care services.
- **Community based child and family services** that are required to register under the *Children, Youth and Families Act* such as:
 - early parenting services
 - intake services
 - Aboriginal child specialist advice support services
 - counselling services.
- **Maternal and child health services**, schooling and early childhood education are out of scope for the scheme.
- **Supported residential services** registered under the *Supported Residential Services (Private Proprietors) Act 2010*, including privately operated businesses that provide Victorians with accommodation and support with everyday activities.
- **Disability services:**
 - provided or funded by the department, such as forensic disability services and disability support services
 - funded by the Transport Accident Commission
 - funded by WorkSafe

Note: It is not intended that services funded by the National Disability Insurance Scheme are regulated; however, if a provider offers services that are also funded by the department, Transport Accident Commission or WorkSafe, they will be regulated under the scheme.

- **Family violence services** funded or provided by the department, including those already required to comply with the Human Services Standards. This includes:
 - case management
 - support and accommodation services provided to people experiencing family violence
 - services for perpetrators.
- **Homelessness support services** for people experiencing, or at risk of, homelessness that are funded or provided by the department, including those already required to comply with the Human Services Standards, such as:
 - accommodation services (for example, crisis accommodation, transitional accommodation)
 - initial assessment and planning services
 - support services including crisis response, counselling and provision of meals and personal care.

Community and public housing are not within the scope of the new regulatory scheme.

- **Sexual assault services** funded or provided by the department, including those already required to comply with the Human Services Standards.

Appendix 3: Methods of collecting data for assessing regulatory options

A range of methods were used to obtain quantitative and qualitative information for the impact assessment contained in this Regulatory Impact Statement.

Stakeholder consultations

The department conducted workshops with seven stakeholder groups on the impacts of the proposed regulations. Sessions were held with sectors that will be impacted by the proposed regulations to discuss the proposed regulatory options within each key area of reform. Feedback from these workshops was documented in an online platform and has informed the impact assessment of the proposed regulatory options.

Overview of sector consultation

Sector group	Taskforce member	Number of participants
Family violence	Tania Farha	4
Family, carer and disability	David Tennant	1
Homelessness	Jenny Smith	20+
Disability	Sarah Fordyce	40+
Sexual assault services	Kathleen Maltzahn	10+
Children, youth and families	Michelle Lonsdale	70+
Department of Families, Fairness and Housing – Children, Youth and Families	–	6

Stakeholders provided useful feedback on how the proposed regulatory changes may impact providers in their sector through consultation sessions and survey responses, and particularly in relation to qualitative assessments of potential impacts of the draft regulations and regulatory and non-regulatory options identified.

Stakeholders were not able to provide detailed feedback on the impacts of some of the proposed changes, particularly where specific requirements under the draft regulations will be supported by guidance and forms required to be developed by the regulator once it is appointed.

While the Regulatory Impact Statement did not include specific consultation with users of social services, membership of the Social Services Regulation Taskforce included advocates for social service users. The department also attended consultations and information sessions with Safe and Equal’s expert advisory panel (with the support of taskforce members), the Victorian Disability Advisory Council and community visitors for supported residential services and disability services.

Stakeholder feedback in relation to the potential impacts of the regulatory options being considered in the Regulatory Impact Statement was largely qualitative rather than quantitative. Data relating to costs and benefits has been included where possible to provide an indication of the magnitude of the regulatory burden experienced by social service providers.

Survey

A survey was sent to relevant sector peak bodies, who distributed the survey to their members, as well as to service providers who attended the consultation workshops. Members of the taskforce also sent the survey to a range of service providers. The intention of this survey was to gather detailed feedback on how the proposed regulatory options may impact social service providers within each sector.

The survey included eight questions, which are set out below, asking stakeholders to comment on the preferred option. This more streamlined approach was adopted to reduce the burden on the sector from responding to a relatively long questionnaire in written form, and acknowledged the department was also offering sector-specific consultation and information sessions which, in combination, risked resulting in consultation fatigue.

The survey asked stakeholders the following questions:

1. For your operations in Victoria, approximately how many employees does your organisation employ across the whole organisation?
2. What type of services does your organisation provide?
3. Which of the following Acts are you registered under?
 - Children Youth and Families Act
 - Disability Act
 - Supported Residential Services (Private Proprietors) Act
 - Not registered under an Act
 - Registered under another Act (please indicated what Acts)
4. How much time does it take and what are the costs of providing the current required information for registration (if applicable) or accreditation?
5. Assuming you have to meet the proposed registration requirements, and provide the types of documentation and evidence outlined above, approximately how much time do you think it would take and what would the costs be to provide the required information?
6. How do you think the proposed outcomes and service requirements above will affect safe service provision, noting that each standard (in the Social Services Regulation Act 2021) has several prescribed outcomes and service requirements?
7. Noting the proposal that each standard in the Social Services Regulation Act will have several prescribed outcomes and service requirements that are consistent across all of the in-scope services:
 - a. How would the introduction of these service requirements change the way services are provided? What are the potential cost impacts of this change?
 - b. Provide the cost impact per year of activities relating to compliance with the Human Services Standards.
 - c. Provide your best estimate of the cost per year of complying with the proposed service requirements.
8. Do you think that expanding the types of conduct that could lead to a worker being excluded from working in out-of-home care, as outlined above, will impact on the safety of children in out-of-home care?

A total of 135 service providers responded to the survey. These providers represented a range of sectors, with responses informing the assessment of the proposed regulatory options.

Services delivered by providers who responded to the survey

Sector	No	% of total response
Child protection services	5	3%
Community-based child and family services	33	21%
Disability services (funded or provided by the department or funded by WorkSafe or the Transport Accident Commission)	31	19%
Supported residential services	10	6%
Family violence services	30	19%
Sexual assault services	3	2%
Homelessness support services	25	16%
Out-of-home care services	22	14%
Secure welfare services	0	0%
Total	159	100%

Desktop research

Desktop research was conducted into the cost and benefit implications of existing regulatory processes where information is available, to ensure that all possible costs and benefits have been considered in the impact assessment within this Regulatory Impact Statement. This research examined:

- the existing regulatory scheme, including legislation and regulation relevant to in-scope sectors
- the new Social Services Regulation Act and how it was developed, including the Legislative Impact Statement
- various other literature available on the websites of peak bodies for different in-scope services relevant to service provision and regulation.

Appendix 4: Sector-specific risks

There are also some sector-specific risks that require regulatory compliance monitoring and, at times, intervention. These include risks as outlined below.

Sector-specific risks

Sector	Sector-specific risks
Disability	<ul style="list-style-type: none"> • Medical harm – for example, due to service users being unable to clearly express themselves or able to comprehend or consent adequately (including about symptoms and treatment side effects and their support needs). • Threats to or breaches of personal safety – for example, due to the presence of other service users with unmanaged complex needs who are at serious risk of harm to self or others. • Higher risks of exploitation, neglect and abuse by staff or other service users who may pose risks, particularly in settings where there are larger numbers of residents living together; where there are inexperienced 24-hour staff working remotely or without on-site supervision; or where services might be using staff who are unfamiliar with the people they are supporting and the organisation. • Use of unauthorised restrictive practices that lead to unnecessary loss of independence and dignity.
Children, youth and families	<ul style="list-style-type: none"> • Children and young people missing from care. • Children and young people at risk of further harm resulting from non-compliance with approved policies and procedures. • Risk of harm to staff resulting from non-compliance with approved policies and procedures.
Family violence	<ul style="list-style-type: none"> • Risk to personal safety of victim survivor service users and increased risk of abuse and harm, including risk of killed by the person using violence, due to inadequate identification, monitoring and management of the risk they pose and non-compliance with evidence-based frameworks, standards and practice guidance • Risk of collusion with people using violence leading to re-enforcing behaviours to cause harm to others • Risk of harm to victim survivors being misidentified as the predominant aggressor and lack of adequate rectification processes and appropriate service response to both victim survivor and the person using violence. • Risk of victim survivors being further traumatised by support services leading to increased risk to their mental health and wellbeing • Risk to children and young people’s safety and wellbeing due to a service response not adequately focusing on their specific developmental needs •
Homelessness	<ul style="list-style-type: none"> • Ongoing homelessness – for example, because service users are not able to be contacted for service and support, or are unable to remain in their home due to family violence. • Risks to personal safety and community safety – for example, due to other service users being violent, service users being under the influence of drugs or alcohol, or being subject to family violence.

Sector	Sector-specific risks
Supported residential services	<ul style="list-style-type: none">• Risk to personal safety – for example, due to other residents who are experiencing vulnerability and may be drug or alcohol affected or experiencing mental health issues.• Security of tenure and exploitation or abuse – for example, due to increased time and opportunities spent with service users.• Unsafe physical environment – for example, due to the increased time and supports required in a residential facility compared with other service types.• Greater risk of neglect and deteriorating health and wellbeing needs not addressed – for example, due to the higher needs and level of care required by service users.

Appendix 5: Current regulatory and complaints landscape for social services

Social services sector	Regulator/oversight bodies	Complaints body	Regulatory schemes
Disability services	<ul style="list-style-type: none"> Human Services Regulator within the department – Human Services Standards and Child Safe Standards Commission for Children and Young People – Reportable Conduct Scheme Disability Worker Commissioner / Disability Worker Registration Board Office of the Public Advocate – Community Visitors Program 	<ul style="list-style-type: none"> Disability Services Commissioner Office of the Public Advocate Victorian Disability Worker Commission / Disability Worker Registration Board 	<ul style="list-style-type: none"> Human Services Standards Disability Act 2006 Disability Worker Regulation Scheme Disability Service Safeguards Act 2018 In some cases, the Child Safe Standards In some cases, Reportable Conduct Scheme In some cases, the Victorian Carer Register
Supported residential services	<ul style="list-style-type: none"> Human Services Regulator within the department Office of the Public Advocate – Community Visitors Program 	<ul style="list-style-type: none"> No current dedicated complaints body 	<ul style="list-style-type: none"> Supported Residential Services (Private Proprietors) Act 2010 including the Accommodation and Personal Support Standards
Children, youth and family services	<ul style="list-style-type: none"> Human Services Regulator within the department Commission for Children and Young People Suitability Panel 	<ul style="list-style-type: none"> No current dedicated complaints body 	<ul style="list-style-type: none"> Children, Youth and Families Act 2005 Human Services Standards Child Safe Standards Reportable Conduct Scheme In some cases, the Victorian Carer Register
Specialist family violence and sexual assault services	<ul style="list-style-type: none"> Human Services Regulator within the department 	<ul style="list-style-type: none"> No current dedicated complaints body 	<ul style="list-style-type: none"> Human Services Standards and accreditation requirements via departmental funding and service agreements In some cases, the Child Safe Standards

Social services sector	Regulator/oversight bodies	Complaints body	Regulatory schemes
Homelessness services	<ul style="list-style-type: none"> Human Services Regulator within the department Commission for Children and Young People 	<ul style="list-style-type: none"> No current dedicated complaints body 	<ul style="list-style-type: none"> Human Services Standards as part of service agreements with the department In some cases, the Child Safe Standards In some cases, the Reportable Conduct Scheme

Appendix 6: Key elements of current approach to regulating social services

Element	Current provisions
Objectives	<p>In Victoria, social services are regulated under separate schemes developed more than a decade ago. Regulatory objectives differ across multiple Acts, and not all social services are subject to formal regulation.</p> <p>The regulatory objectives of the disability and children, youth and family schemes sit within the <i>Disability Act 2006</i> and the <i>Children, Youth and Families Act 2005</i>. The Human Services Standards expand on the legislative objectives by setting out a set of service quality standards providers must comply with that are consistent with the following legislative objectives:</p> <ul style="list-style-type: none"> • under the Disability Act to promote and protect the rights of people accessing disability services and to ensure accountability of disability service providers to people accessing their services • under the Children, Youth and Families Act to protect children, regulate services supporting children and families, and to investigate allegations of abuse. <p>In relation to the supported residential services scheme, the Human Services Regulator oversees and enforces compliance with the Accommodation and Personal Support Standards, supporting the objective of protecting the safety and wellbeing of residents.</p> <p>The suite of regulatory tools differs between the various Acts, which means regulatory responses to non-compliance can differ across social service providers.</p> <p>The department performs both regulatory and other functions (such as service planning, funding, service agreement management and commissioning), resulting in regulation and contract management activities being conflated.</p>
Registration	<p>Some in-scope services are currently required to be registered (such as department-funded disability services, children and family services, and supported residential services). Providers currently registered under the Disability Act and the Children, Youth, and Families Act need to regularly renew their registration. Other in-scope services, including family violence, sexual assault and homelessness support services, are not required to be registered; however, they are subject, via contractual obligations, to other standards and monitoring frameworks including a requirement for accreditation.</p>
Standards	<p>Most providers that are within the scope of the scheme are currently required to comply with the Human Services Standards. Compliance with the Human Services Standards is assessed through a requirement that providers are subject to an external audit by an independent review body.</p> <p>Providers that offer supported residential services, or that are disability services funded by the Transport Accident Commission or WorkSafe, are subject to their own particular standards. For example, supported residential services must comply with Accommodation and Personal Support Standards under the <i>Supported Residential Services (Private Proprietors) Act 2010</i>.</p>
Victorian Carer Register	<p>Victoria has a legislated register for certain out-of-home care workers and carers (the Victorian Carer Register), which is a list of workers and carers approved as foster carers or engaged or employed to work as out-of-home care workers or carers. The Human Services Regulator, within the department, currently administers the Victorian Carer Register.</p> <p>Some other workers and carers in the social services sector are subject to other regulatory schemes that can, in some instances, prohibit workers and carers</p>

Element	Current provisions
	<p>from offering care or services, including the Working with Children Check scheme, the Victorian Disability Worker Regulation scheme, the National Registration and Accreditation Scheme for health professions and the National Disability Insurance Scheme (noting National Disability Insurance Scheme services are not in scope).</p>
<p>Compliance and enforcement</p>	<p>For providers funded by the department, where compliance with the Human Services Standards is embedded in funding contracts, independent review bodies are approved by the department to assess service provider compliance with the Human Services Standards. Based on the results of the independent reviews and other evidence of performance, it may be open to the department to amend or terminate a contract or take other action.</p> <p>Relying on contractual obligations to monitor and enforce compliance with requirements means that compliance relies on contract management tools rather than proportionate, risk-based regulatory tools. This can mean, in some circumstances, the only real option to address risks to service users is for the department to defund the service.</p> <p>Various compliance monitoring and enforcement powers exist under existing legislation that regulates social services such as supported residential services, providers offering services to children, youth and families, and disability services. The Human Services Regulator does not currently have a graduated and proportionate set of enforcement tools under these frameworks to enable it to respond flexibly to regulatory risks. For example, in relation to disability services and to children, youth and family services, powers are generally limited and confined to imposing conditions on registration, de-registering providers and appointing an administrator. For supported residential services, powers also include issuing infringement and compliance notices and suspending admissions to a service.</p> <p>There are no safeguarding provisions under the <i>Transport Accident Act 1986</i> or the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> to support the Transport Accident Commission and WorkSafe clients with a disability. Therefore, the Transport Accident Commission and WorkSafe do not have any regulatory levers to require service providers to rectify unsafe practices.</p>
<p>Information sharing</p>	<p>While there are a number of existing information sharing arrangements, there is no specific statutory scheme to support information sharing between government bodies that play a role in safeguarding social service users.</p>
<p>Institutional</p>	<p>Currently, the department, via the Human Services Regulator, is responsible for regulating many social services. However, the department also carries out a range of potentially conflicting functions including funding, contract management and directly delivering services that it regulates.</p>