

Social Services Regulation Taskforce

Communique

Official communique from the Social Services Regulation
Taskforce meeting of 13 February 2023

Taskforce Co-chair:

Adjunct Professor Susan Pascoe AM, Independent Co-Chair

Communique from the Social Services Regulation Taskforce – Meeting of 13 February 2023

On 13 February 2023, the Social Services Regulation Taskforce (the Taskforce) convened its seventh meeting. The Taskforce membership is at **Attachment 1**.

The meeting agenda included a range of items for discussion including in relation to:

1. A discussion led by the co-chair Adjunct Professor Susan Pascoe AM on key achievements of the Taskforce in 2022 and its role in 2023
2. Taskforce forward work program
3. Update from the department on the quality and safety safeguarding system, including accreditation requirements for funded agencies of social services
4. Most recent proposed changes to draft regulations relating to prescribed outcomes and service requirements and organisational notification requirements
5. Update on proposed timing and consultation approach for the regulatory impact statement supporting the draft regulations

Content

At the beginning of the meeting, independent co-chair Ms Susan Pascoe AM acknowledged the:

- leadership role played by the former government co-chair Mr Josh Bull MP, former Parliamentary Secretary for Health and former Parliamentary Secretary for Carers and Volunteers. Mr Bull has shifted to a new portfolio and is currently the Parliamentary Secretary for Level Crossing Removals and Parliamentary Secretary for Transport; and
- the invaluable contribution to numerous Taskforce policy and operational policy discussions about the draft regulations and other matters by former Taskforce member Sue Woodward, who resigned following her appointment to the role of Commissioner with the Australian Charities and Not-for Profits Commission.

At the meeting, Taskforce members and the co-chair discussed the following matters:

1. Discussion led by the co-chair Adjunct Professor Susan Pascoe AM on key achievements of the Taskforce in 2022 and its role in 2023

- The co-chair highlighted Taskforce achievements in 2022. The role of Taskforce in 2023 was discussed, noting that a key focus for the Taskforce this year will be on providing input to the regulatory impact statement process, promoting the consultation process within their networks and considering key themes arising from the consultation process.
- The department advised that the Victorian Government will be considering a government representative on the Taskforce, ongoing engagement beyond August and will provide advice about these matters in due course, recognising the importance that Taskforce members attribute to these issues.

- The department also provided an update on proposed fees under the new scheme, advising that discussions about pricing levels, including for registration and annual fees, are ongoing, giving consideration to government cost recovery principles, the objectives of the social services regulatory scheme and Taskforce members' concerns about the potential problems fees could create, particularly for smaller providers or those who will be subject to regulation for the first time.

2. Taskforce forward work program

The co-chair discussed proposed Taskforce meeting schedule and agenda items through to September 2023.

An indicative forward schedule of Taskforce meetings was agreed as follows, based on certain assumptions, such as when the draft regulations can be finally settled, and the Minister's consideration of the draft regulations and Regulatory Impact Assessment:

16 May 2023 – To focus on:

- Taskforce reflections on the Regulatory Impact Statement;
- communication and engagement activities, including Taskforce members' engagement to support Regulatory Impact Statement consultation; and
- the appointment of the Regulator.

17 July 2023 – To focus on:

- the Regulatory Impact Statement consultation:
 - key themes and feedback to the consultation process;
 - discuss any proposed changes to draft regulations based on feedback received; and
 - the next steps in ongoing sector consultation.

5 September 2023 – To focus on:

- final regulations;
- Taskforce reflections on its role and achievements; and
- the next steps in ongoing sector consultation.

3. Update from the department on the quality and safety safeguarding system, including accreditation requirements for funded agencies of social services

- The Deputy Secretary of the department's System Reform and Workforce Division, Camille Kingston, advised that from 1 July 2024, the department will remove the current requirement for funded agencies to go through an accreditation process undertaken by an independent review body.
- The Taskforce noted the importance of the department providing advice about transitional arrangements in relation to accreditation, for the current period until 1 July 2024, as soon as possible to provide agencies with maximum clarity.
- Some Taskforce members asked whether and if so how the Department would ensure regulated entities that wish to retain independent auditing are not discouraged from doing so.
- The Department will further consider transitional arrangements and related matters.
- On 16 February 2023, the department advised social service providers via the Funded Agency Channel that:

- it would not require independent review body audits to be undertaken from 1 July 2024 when the new regulatory scheme commences; and
- the Human Services Regulator within the department will provide further information on transitional arrangements between now and 1 July 2024, by late March or early April 2023.

4. Most recent proposed changes to draft regulations relating to prescribed outcomes and service requirements and organisational notification requirements

- The department provided an update on proposed changes to organisational notification requirements and outcomes and service requirements consultation papers. These include
 - some rewording of prescribed matters to align the wording with how the requirements for registration (and matters to be considered in relation to suitability) are set out
 - proposed regulations requiring that a lapse or cancellation of insurance needs to be notified, including change in the financial capacity of the provider to operate the service
 - proposal that a person’s decision-making capacity is to be determined in accordance with sections 5 and 6 of the *Guardianship and Administration Act 2019*
 - ensuring that providers have regard to the accessibility needs of service users when ensuring that the premises are suitable for the provision of the service
 - requiring providers to inform service users about their right to raise matters of service user safety with the regulator.
- Some Taskforce members raised concerns about proposed updates to the notification requirements consultation paper, including a requirement that registered service providers notify the regulator about lapses or cancellation of insurances appropriate to operate the service.
- Some Taskforce members also raised concerns about the proposal that a person’s decision-making capacity is determined in accordance with the *Guardianship and Administration Act 2019*.
- Updates on reviews of the Reportable Conduct Scheme and the Client Incident Management System were provided. Some Taskforce members reiterated that these reviews are likely to intersect with notification requirements and it will be important to share information about proposals for substantive change and not just process.
- The department will further consider Taskforce’s feedback about these matters and will circulate any amendments to the consultation papers to Taskforce members.

5. Update on proposed timing and consultation approach for the regulatory impact statement supporting the draft regulations

- The department advised that the public consultation will be hosted on the Engage Victoria platform, the Victorian Government's online consultation platform. This is where the regulatory impact statement and draft regulations will be published during the public consultation period.
- Supporting background information and resources on the Social Services Regulation Reform, including an Easy Read paper with outcomes for service users, families and carers, will also be available on the Engage Victoria consultation page.
- Participants will be able to provide their feedback on the draft regulations and regulatory impact statement by either
 - completing a survey questionnaire; and/or
 - providing a written submission

- The department sought the views of the Taskforce as to whether it would prefer a shorter public consultation period (such as the minimum requirement of 28 days) with regulations published within a similar timeframe, or a longer consultation period given the size of the regulatory impact assessment and draft regulations, with delayed publication of the final regulations.
- The Taskforce indicated its preference for a longer consultation period, noting the length of both the regulatory impact assessment and the size and complexity of the package of draft regulations for the regulatory scheme.
- Based on this timeline, the public consultation on draft regulations and regulatory impact statement is anticipated to occur from mid-April to mid-June 2023 for a period of about 50 days.
- This would mean the final regulations would be anticipated to be published around October 2023, rather than August/September 2023, noting the timing of publishing the regulations will ultimately be a matter for the Minister to determine.
- The Taskforce also discussed the consultation approach with respect to Engage Victoria. In relation to publishing submissions to the Regulatory Impact Assessment, the Taskforce advised the department that in its view, stakeholder submissions to the Regulatory Impact Assessment should be published if stakeholders formally consent by checking the 'yes' box on the Engage Victoria consultation page, unless stakeholders:
 - check the 'no' box to indicate they do not wish for their submission to be published
 - do not provide a specific response by checking 'yes' or a 'no'.
- The Taskforce also provided feedback on the proposed consultation questions. Taskforce members considered the questions could be improved, for example, by inviting stakeholders to provide further information by expanding on 'yes' and 'no' responses, and with the inclusion of a question on the impact of the proposed regulations on service providers.

6. Other matters discussed

- Some Taskforce members expressed concern at the proposal that Family Safety Victoria, an office within the Department of Fairness, Families and Housing, will not be within the scope of the social services regulatory scheme, for the purposes of The Orange Door. The department indicated its current view is that Family Safety Victoria's functions in The Orange Door do not include the direct provision of social services, which are covered by the regulatory scheme.
- Taskforce members expressed a contrary view, noting that the management of activities in The Orange Door network is reliant on Family Safety Victoria and that in their view, Family Safety Victoria staff perform and direct various service activities.
- In the event that The Orange Door is not included, Taskforce members advised further consideration should be given to accountability mechanisms for the Orange Door.
- The department noted:
 - there will be a public consultation process in relation to the draft regulations, being the regulatory impact statement process;
 - stakeholders may wish to provide a submission as part of the regulatory impact statement process in relation to matters of the proposed scope of the regulatory scheme, as outlined in the draft regulations; and
 - the Minister will be briefed on key issues raised by stakeholders in submissions.
- Taskforce members agreed that the co-chair would write to the Minister on behalf of the Taskforce raising the following matters:

- possible arrangements for government representation following the departure of the government co-chair Mr Josh Bull MP;
- possible replacement of Taskforce member Sue Woodward following their resignation;
- appointment of the regulator including a proposal for a Taskforce member be on the selection panel for the regulator;
- offer of advice to the Victorian Government on future consultation mechanisms for the regulator to engage with the sector; and
- concerns about the scope of the draft regulations as it relates to The Orange Door.

Attachment 1: Taskforce Members

Taskforce co-chair:

Adjunct Professor 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
Jenny Smith, 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