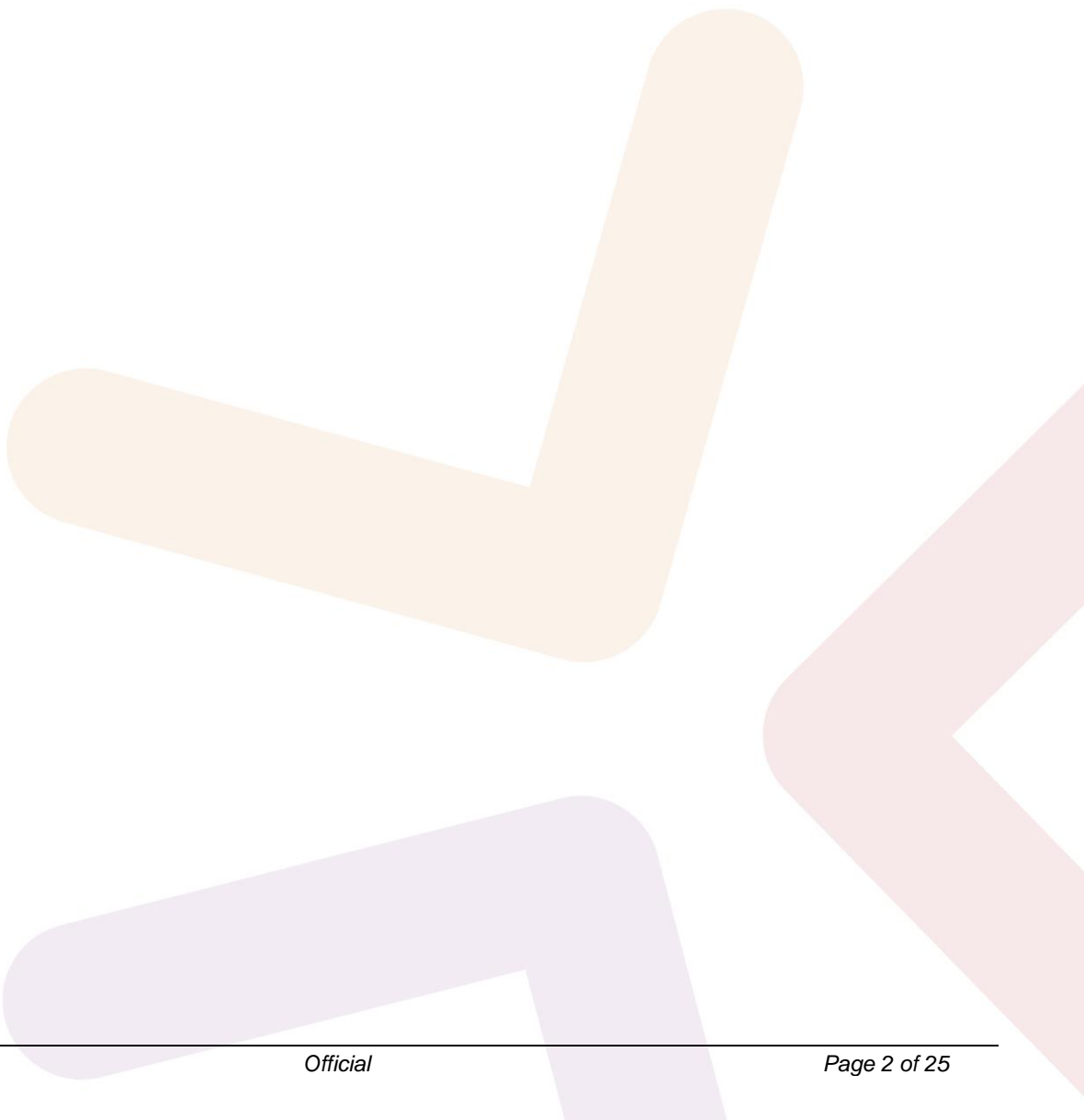


HealthShare Victoria Compliance Guidelines

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1. Introduction

1.1 Purpose

These guidelines have been prepared by HealthShare Victoria¹ (HSV) to provide guidance to Victorian health services on HSV's compliance functions set out in section 131 of the *Health Services Act 1988* (Vic) (the Act). These guidelines provide detail on HSV reporting requirements for hospitals and health services required to comply with HSV's purchasing policies (HSV PPs). They are intended as a resource to assist health services to achieve the aim of improved procurement practices across the Victorian health sector and are relevant for Health Service Boards, Accountable Officers (AO) and Chief Procurement Officers (CPO).

1.2 Application

These guidelines apply to all Schedule 1 and 5 public hospitals and health services (mandated health services) as listed in the Act. This group is required to comply with all requirements of the HSV Compliance Framework. They assist with the HSV PPs which are mandated from 1 January 2024.

1.3 Confidentiality and use of information

As per section 132 of the Act, HSV has the power to require the AO of a mandated health service to provide HSV with information and data relating to the supply of goods and services and the management and disposal of goods. In carrying out its functions, HSV may request health services provide it with information which may be of a confidential or commercially sensitive nature. HSV will treat confidential and commercially sensitive information as secret and confidential and will not use this information for any other purpose other than carrying out its functions under the Act. This may include disclosure to the Department of Health (DH), Minister for Health or as otherwise required by law.

Mandated health services must ensure that all confidential and commercially sensitive information to which they have access as a result of accessing HSV collective agreements, or through other engagement with HSV, is protected as secret and confidential. Under clause 2.1(a) of HSV Purchasing Policy 5. Collective Purchasing and Supply Chain, mandated health services must abide by the terms of collective agreements entered into by HSV. This includes all terms relating to confidential and commercially sensitive information.

In addition, mandated health services must ensure in their market approach that all potential suppliers are treated fairly and have access to similar information and that standards of probity, confidentiality, and security are applied in all interactions between the mandated health service and actual or potential suppliers.

1.4 HSV Legislative Functions & Powers

These guidelines are based on HSV's legislative functions and powers. HSV's functions are set out in the Act and include those in section 131(d) and (g):

- d) to monitor compliance by public hospitals with purchasing policies and HSV directions and to report irregularities to the Minister
- g) to ensure that probity is maintained in purchasing, tendering and contracting activities in public hospitals

These functions accord HSV both an educative and a monitoring function to oversee health service procurement practices and to ensure compliance with HSV gazetted policies and directions. As set out in section 132(d), HSV may require the AO of a public hospital to audit compliance with purchasing policies and to provide audit reports to HSV. This does not encompass HSV conducting audits. Under section 131(d), HSV has the power to escalate compliance issues by notifying DH and/or the Minister for Health in

¹ HealthShare Victoria is the assumed trading name for Health Purchasing Victoria that remains as an independent public entity incorporated under the *Health Services Act 1988* (Vic).

accordance with HSV's graduated compliance monitoring and escalation process. Where possible, HSV will endeavour to work alongside the health service to ensure compliance issues are resolved prior to any escalation.

Health services are expected to operate under HSV Purchasing Policies, to take actions to bring their organisation into accord with procurement and probity requirements, and to provide HSV with information required for its monitoring role.

2. Compliance Landscape

2.1 HSV Purchasing Policies

The HSV Purchasing Policies (HSV PPs) were gazetted on 3 November 2022 and come into effect 1 January 2023 and are mandatory for all Schedule 1 and 5 public hospitals and health services. Health services have been given 12 months to transition to the new policies and are required to be fully compliant by 1 January 2024.

In accordance with section 131(b)(i) of the Act, the HSV PPs fulfil HSV's requirements to develop, implement and review policies and practices to promote best-value procurement and probity in relation to the supply of goods and services to public hospitals and the management and disposal of goods by public hospitals.

The policies position procurement as a core business function to support better procurement outcomes and emphasise strategic planning, early and thorough market engagement to maximise value for money, and a renewed focus on procurement capability. At their core, the HSV PPs envisage a shift in market approach from a financial-based assessment to one based on best practice procurement principles.

Policy review

The HSV PPs have recently undergone a review with a number of changes. These were approved by the HSV Board on 3 October 2022, which come into effect 1 January 2023.

2.2 HSV Compliance Framework

A HSV Compliance Framework has been established and approved by the HSV Board to clarify HSV's legislative functions and to assist health services in ensuring policy compliance by setting out a compliance program and the obligations of both HSV and mandated health services.

The framework takes a multi-faceted approach comprising of both:

Compliance monitoring activities

- the requirement to report on compliance with the HSV PPs through a number of mechanisms i.e. audit program and an annual attestation
- monitoring and escalation of non-compliance issues

Support and prevention activities

- education, training, advice, guidance, and selective intervention in health service procurement events.

The HSV PPs underpin the HSV Compliance Framework and are based on the principles of value for money, open and fair competition, accountability, risk management, probity, and transparency.

Ongoing guidance will be provided through HSV's team of Customer Relationship Managers to assist health services to meet their obligations under the framework.

Refer to [Appendix 2 - HSV Compliance Framework](#).

3. Overview of compliance reporting obligations

In keeping with HSV’s legislative functions, the HSV Compliance Framework is based on the principle that mandated health services are accountable for their compliance to the HSV PPs. Mandated health services are expected to take actions to align their organisation with the framework and to comply with requests from HSV for information required to enable HSV to carry out its monitoring function. Each mandated health service is required to take responsibility for elements of the compliance program set out below.

Reporting Obligations	
Audit Program	Audit reports are due by 30 June of the nominated financial year. HSV’s three-year audit schedule and will notify health services 12 months in advance.
Annual attestation to HSV Purchasing Policies in health services’ annual report of operations which includes also includes Emergency Procurement Activities	Annual attestation of compliance with HSV Purchasing Policies in health services’ annual report of operations.
Annual compliance self-assessment to HSV Purchasing Policies and HSV Collective Agreements	Annually by 31 May of each financial year.
Annual submission of Procurement Activity Plan	Annually by 31 May of each financial year.
Annual submission of contracts in place at the time of submission	Annually by 31 May of each financial year.
Annual submission of on-selling arrangement	Annually by 31 May of each financial year.

Health services are encouraged to use the secure [HSV CPO Compliance Portal](#) to submit the above reports.

4. Probity

4.1 Overview

The principle of probity underpins the HSV PPs and HSV Compliance Framework.

The HSV PPs set out the minimum probity requirements for each mandated health service’s procurement function. The HSV Compliance Framework builds on this by providing support and guidance to health services on how they can ensure probity in their procurement practice.

4.2 Accountability for probity

Probity is the responsibility of the CPO². Accountability ultimately rests with the Health Service AO and Board. The engagement of external probity advisors and/or auditors does not transfer the responsibility for probity.

² The AO of a health service may choose not to create a separate role for the CPO role, but instead include the duties within an existing role in the health services. The AO must be satisfied that governance structures and reporting requirements are in place to conduct the health service’s procurement activity and to maintain compliance with HSV Purchasing Policies

The health service CPO is responsible for the implementation of an appropriate procurement assurance framework. This should assist in identifying who is responsible and accountable for probity-related activities within procurement.

4.3 Managing probity risks

Ensuring probity in procurement requires consideration of the complexity, risks and governance requirements of procurement activities. Health services should have their own procedures in place to guide these activities.

4.4 HSV's role in probity

HSV is responsible under section 131 of the Act for monitoring the compliance of health services with the legislative requirement to ensure probity in procurement practice, as well as for providing health services with assistance in the form of education, training, guidance, and selective intervention in health service procurement events.

HSV will provide high level guidance and recommendations on certain probity-related matters where required. This does not extend to auditing probity activities or providing probity advice in an official or legal capacity (this should be provided by a probity advisor or auditor).

4.5 Identification of probity risks

HSV may identify actual or potential probity risks (or breaches) in health service procurement activities.

Where appropriate, HSV may recommend:

- that the health service seeks independent advice and/or oversight from an officer of the health service who is both independent from the process and possesses the necessary skills and qualifications; or from a probity advisor/auditor; and/or
- that HSV partner with a health service to assist with a procurement event following an evaluation and consultation process with the health service.

4.6 Intervention in procurement events

A decision by HSV to assist with a health service procurement event will be made after consultation with the health service concerned and any other relevant party (i.e. DH) and an evaluation process that takes into account all the circumstances not limited to the:

- complexity of the procurement (probity risk and contract value);
- capability within the health service to manage the procurement; and
- directions from DHHS (if applicable).

4.7 Requests for procurement assistance

Health services may request to transfer to HSV responsibility or provide oversight for a procurement activity or event due to probity risk, a competition law issue or for other reasons such as the opportunity for a state-wide procurement. The decision to assist will be at HSV's discretion and will be determined on a case-by-case basis.

5. Compliance with HSV Procurement Activity Plan

5.1 Compliance with HSV Procurement Activity Plan

The HSV Procurement Activity Plan (PAP) sets out all the categories of goods and services that HSV plans to include in its collective sourcing program in the given year.

Once HSV's PAP is approved for the relevant year, mandated health services are required to ensure compliance.

Health services cannot enter into a new contract or renew any current contract with suppliers for categories of goods or services which are the subject of the HSV PAP, unless there is a contractual capacity to terminate the contract when a HSV collective agreement for the goods and services concerned is entered into.

This obligation is removed for any category of goods or services removed from the HSV PAP.

HSV has developed a [standard clause](#) that health services must include within their contracts to enable them to terminate their existing contracts and transition to HSV collective contracts when required.

Refer: HSV Purchasing Policy 4 Contract Management and Asset Disposal section 2.2 b) i) and 3.2.1 a).

5.2 Development of HSV PAP

HSV revises its collective annual and long-term procurement plans on a semi-annual basis. The long-term procurement plan is presented to the HSV Procurement and Supply Chain Committee on a quarterly basis.

Prior to confirming the HSV PAP, HSV will consult with the sector on the semi-annual procurement plan issuing a PAP for feedback.

In developing HSV's PAP HSV will have reference to a number of factors not limited to:

- health service summary procurement activity plans;
- overall expenditure of the category in question across the state;
- feedback arising from consultation with health services; and
- directions from the DH (if applicable).

If an opportunity is identified for HSV to provide benefits to all health services by conducting a state-wide procurement activity then the opportunity will be considered by the HSV Director of Procurement in the first instance.

6. HSV Audit Program

A **compliance audit** is an assessment of an organisation's activities to determine whether the organisation complies with a set of regulatory requirements.

6.1 HSV powers

Section 132(d) of the *Health Services Act 1988 (Vic)* states that HSV may require the AO of a public hospital to audit compliance with purchasing policies and HSV directions and provide audit reports to HSV. Under section 132(e), HSV may also require that the AO of a public hospital provide information and data relating to its procurement activities. Where requested by HSV, this must be provided to HSV within 28 days unless specified otherwise in the request.

6.2 Audit program

The HSV Audit Program is a recurring three-year audit program commencing from the 2016-17 financial year. HSV's Audit Schedule is available on HSV's website www.healthsharevic.org.au. Health services will be notified by HSV 12 months before the scheduled audit is due.

6.3 Audit report submission

As part of HSV's audit program, health services are required to undertake an audit of HSV PPs and directions in accordance with the HSV schedule and to submit the following information via the audit submission portal to the HSV CE or delegated authority by 30 June of the nominated year (or in the case of spot audits, the date specified by HSV in the request):

- Audit report
- Written statement of response to the audit report endorsed and signed by the health service AO

The health service AO's written statement in response should address all non-compliance issues and recommendations for improvement identified by the auditor, actions being taken to address these issues and the estimated timeframe for these actions.

HSV will review and monitor the information received and follow up with health services and auditors where required to clarify information received or to identify appropriate actions to address non-compliance or recommendations for improvement in accordance with the process for monitoring and escalation set out in these guidelines.

6.4 Audit Engagement

The audit required is an advisory engagement and therefore not subject to assurance or other standards issued by the Australian Auditing and Assurances Standards Board.

As HSV does not have the power to conduct the audit, each health service is responsible for facilitating the audit by engaging an auditor with the appropriate qualifications, skills and independence to conduct the audit. The health service is required to provide the required information to HSV by the due date. If possible, HSV recommends the health service's internal auditors be engaged to complete the audit.

Any costs incurred in conducting the audit are the responsibility of the health service.

6.5 Audit Scope

The scope of the audit is the HSV Purchasing Policies 1-5. The HSV Audit Guidelines provide a suggested audit template, mandatory policy requirements and suggested controls to assist auditors in undertaking the audit.

The health service CPO and auditor(s) should agree on the size of the sample test(s) which should comprise samples across all three of HSV's procurement streams (medical and pharmaceutical, medical equipment, and indirect products and services sourcing) and should be reasonably indicative of the health service's procurement activities. As such, the sample test(s) may vary depending on the nature of a health service and its procurement function.

The audit of HSV Purchasing Policies 1-5 should be undertaken through observation, enquiry and reference to documentary evidence such as samples of procurement categories or activities, resources, policies and procedures and other reference material, which will vary depending on each policy requirement. The samples should be referenced to support the audit findings and recommendations.

6.6 Requirements of Health Service Auditors

Health service auditors are responsible for conducting the audit, which involves:

- Reviewing whether each health service is complying with HSV Purchasing Policies.
- Identifying any areas of non-compliance with HSV Purchasing Policies.
- Providing recommendations for improvement to prevent issues of non-compliance with the HSV Purchasing Policies occurring.
- Providing a risk rating for all areas of non-compliance with HSV Purchasing Policies and recommendations for improvement to prevent issues of non-compliance with the HSV Purchasing Policies occurring.

6.7 Format of Audit Report

While the health service CPO and health service auditor are responsible for determining the manner in which the audit is conducted, it is recommended that the audit report contains the following information:

- Executive summary
- Objective
- Outcomes/Key findings
- Areas of non-compliance with HSV Purchasing Policies (including a risk rating for each)
- Recommendations for improvement to prevent issues of non-compliance with HSV Purchasing Policies (including a risk rating for each)
- Risk rating methodology

6.8 HSV Audit Schedule

The HSV Audit Schedule setting out audits for financial years and is available to CPOs via the secure [CPO Compliance Portal](#) on the HSV website.

Beyond the initial three-year schedule, the audit schedule will revert to the beginning, meaning that health services will be required to complete a compliance audit every three years.

While health services are required to submit audit reports and a response to HSV by 30 June of the nominated year, they are encouraged to schedule these earlier in the year or where possible, as part of their health service's forward internal audit program.

6.9 Request for Change to Audit Schedule

Where a health service is unable to complete the compliance audit in the year nominated by HSV, they must submit a letter from the Health Service AO to the HSV CE setting out the reasons why the compliance audit cannot be completed in this timeframe and proposing an alternative date.

This will be considered and elevated to the HSV Board if required. If the HSV CE and/or Board consider the reasons to be satisfactory, the audit may be rescheduled to the date requested by the health service or a date mutually agreed by HSV and the health service. Where the HSV CE and/or Board consider the reasons to be unsatisfactory, HSV may decline the request.

6.10 Spot Audits

Spot audits may be required if HSV has concerns in relation to non-compliance with HSV Purchasing Policies, probity, or other matters including but not limited to protected disclosures or media investigations.

HSV Audit Program Summary	
Audit period	By 30 June of nominated year in three-year recurrent audit schedule
Responsibility for completing audit	Health service auditor
Responsibility for submitting audit report to HSV	AO
Requirements for review by Internal Audit Committee/Board	The Audit Committee or Board in accordance with the health services' internal process.

7. Attestation

An **attestation** is a personal commitment from the accountable officer of an organisation's compliance with certain regulatory requirements.

7.1 Attestation

Mandated health services are required to complete an annual attestation to the HSV Purchasing Policies in their health services' annual report of operations. The attestation must be completed by the health service AO and follow the form prescribed by HSV below.

7.2 Form

The prescribed form as set out in this section will be included in the Department of Health (DH) model accounts.

No compliance issues

I, [name of AO of health service], certify that [name of health service] has put in place appropriate internal controls and processes to ensure that it has materially complied with all requirements set out in the HSV Purchasing Policies including mandatory HSV collective agreements as required by the *Health Services Act 1988 (Vic)* and has critically reviewed these controls and processes during the year.

Material non-compliance issues

I [name of AO of health service], certify that [name of health service], has put in place appropriate internal controls and processes to ensure that it has materially complied with all requirements set out in the HSV Purchasing Policies including mandatory HSV collective agreements as required by the *Health Services Act 1988* (Vic) and has critically reviewed these controls and processes during the year, except for the following material non-compliance issues:

- [for each non-compliance issue insert a reference to relevant policy requirement or HSV agreement, summary of issue, actions being taken to address and anticipated timeframe]

7.3 Material non-compliance issue

A 'material' non-compliance issue relating to the HSV Purchasing Policies is defined as a compliance or probity issue that a reasonable person would consider has a material impact on the health service, regulatory body (HSV) or State with reference to the nature and extent of the risk as defined by the health services' risk management framework.

Examples of 'material' non-compliance issues may include:

- Probity breach in a health service procurement activity with reputational/ media implications resulting in a high (or greater) risk to the agency after mitigating strategies have been applied.
- Threat of legal action on the part of a supplier relating to a health service procurement activity resulting in a high (or greater) risk to the agency after mitigating strategies have been applied.
- Insufficient capability within a health service to manage a high-risk procurement activity resulting in a high (or greater) risk to the agency after mitigating strategies have been applied.
- A conflict of interest emerges that was not disclosed prior to the commencement of a health service procurement activity resulting in the risk of a legal challenge or reputational damage resulting in a high (or greater) risk to the agency after mitigating strategies have been applied.

Attestation with HSV Purchasing Policies Summary	
Attestation period	1 July to 30 June of each financial year
Responsibility for preparing attestation	CPO
Responsibility for completing attestation	AO
Requirement for review by Internal Audit Committee/ Board	The Audit Committee or Board in accordance with the health services' internal process.

8. Annual Compliance Self-Assessment

8.1 Assessment

All mandated health services accessing HSV collective contracts must complete an annual self-assessment of their compliance to the HSV Purchasing Policies and HSV collective agreements and supply chain. The assessment of compliance should relate to the compliance status at that point in time. The purpose of the assessment is to provide a mechanism for health services to regularly review compliance to HSV requirements.

The self-assessment will comprise of two areas:

1. Policy Compliance

Health services will be asked to assess their compliance with the HSV Purchasing Policies for the relevant financial year. This includes identifying all instances of non-compliance with the policies including reasons for any non-compliance, actions the health service is taking to address the non-compliance and the timeframes for these actions.

2. Contract Compliance

Health services will be asked to assess their spend (on contract and off contract spend) of all HSV collective agreements that are mandatory for their organisation and to provide reasons for noncompliance.

8.2 Responsibility

It is the responsibility of the Health Service CPO to complete the self-assessment prior to review and submission to HSV by the health service AO.

The AO of each health service must approve the report and submit this to HSV.

8.3 Self-assessment Portal

Mandated health services will be required to complete their self-assessment through the online CPO submission tool on the HSV website. It must be submitted by the date set by HSV. Any changes that are required post submission will need to be approved and re-submitted via the HSV website.

8.4 Reporting

Aggregated self-assessment data will be published in the HSV Annual Report and reported to the HSV Board.

Annual Self-Assessment to HSV Purchasing Policies Summary	
Annual self-assessment	31 May of each financial year
Responsibility for completion	CPO
Responsibility for submission to HSV	AO

9. 'Real Time' Status Reporting to HSV Collective Agreements

9.1 Status Reporting

Health services are required to provide 'real time' status reports to HSV on their compliance with HSV collective agreements.

This will facilitate the following reporting:

- confirmation of transition to new HSV collective agreements at the end of the transition period
- changes in a health services compliance with HSV collective agreement(s) within the financial year.

9.2 Responsibility

It is the responsibility of the Health Service CPO (or their delegated representative) to complete the status reports of compliance to HSV collective agreements.

HSV Customer Relationship Managers will work with health services to communicate requirements including the transition timeframes for new collective agreements.

9.3 Status Reporting Portal

The online portal for status reporting will retain information on health service compliance to HSV collective agreements so that health services will only need to update information to confirm transition to new HSV collective agreements or to reflect changes in a health services' compliance status throughout the financial year.

In addition, the online annual self-assessment portal will automatically populate with contract compliance information from the annual self-assessment so that this information does not need to be entered on multiple occasions.

'Real Time' Status Reporting Summary	
Status reporting to HSV Collective Agreements	Ongoing requirement to: <ul style="list-style-type: none">• Confirm transition to new HSV agreements within the transition period• Report changes in a health services compliance status
Responsibility for completion	CPO

10. Ongoing Reporting 'Material' Non-Compliance Issues

10.1 Overview

Mandated health services are required to proactively report 'material' non-compliance issues to HSV within 30 days of the CPO becoming aware of the issue.

This is required to fulfil HSV's legislative requirement under the Act to monitor compliance and ensure probity in the purchasing, tendering and contracting activities of Victorian health services. In particular, HSV requires this information to identify support required by the health services to address significant issues that may arise.

10.2 'Material' non-compliance issue

A 'material' non-compliance issue is defined as a compliance or probity issue relating to the HSV Health Purchasing Policies that a reasonable person would consider has a material impact on the health service, regulatory body (HSV) or State with reference to the nature and extent of the risk as defined by the health services' risk management framework.

Examples of 'material' non-compliance issues may include:

- Probity breach in a health service procurement activity with reputational/ media implications resulting in a high (or greater) risk to the agency after mitigating strategies have been applied.
- Threat of legal action on the part of a supplier relating to a health service procurement activity resulting in a high (or greater) risk to the agency after mitigating strategies have been applied.

- Insufficient capability within a health service to manage a high risk procurement activity resulting in a high (or greater) risk to the agency after mitigating strategies have been applied.
- A conflict of interest emerges that was not disclosed prior to the commencement of a health service procurement activity resulting in the risk of a legal challenge or reputational damage resulting in a high (or greater) risk to the agency after mitigating strategies have been applied.

10.3 Reporting to HSV

Issues should be reported in the first instance to the HSV Compliance Manager compliance@healthsharevic.org.au. HSV will follow up with the health service to determine appropriate actions to address issues raised.

Material Non-Compliance Issues Summary	
Reporting material noncompliance issues	Ongoing requirement to report these issues within 30 days of the CPO becoming aware of the issue.
Responsibility for reporting	AO

10.4 Overview

Mandated health services are required to submit the following activity reports to HSV by 31 May of each financial year:

- a procurement activity plan (PAP) consisting of all procurement activities that the health service anticipates taking to market in the next 12-18 months
- a current contract register with a list of all current contracts in place, at the time of submission
- details of all on-selling arrangements

The information should be based on the best available information accessible by the health service.

10.5 Submission

It is the responsibility of the health service CPO to submit all registers annually to HealthShare Victoria via the HSV Compliance Portal or by email to compliance@healthsharevic.org.au.

10.6 Review of Procurement Activity Plan and Contracts Register

HSV will review the registers for:

- completeness and accuracy, and seek further information where the plans are incomplete or missing or where otherwise required
- identify procurement activities of potential high probity risk
- identify collective sourcing opportunities across the state
- recommend that a health service seek advice and/or oversight for a procurement activity. This may be from a probity advisor, probity auditor and/or a officer of the health service who is both independent from the process and possesses the necessary skills and qualifications.

If there are any concerns with information in the procurement activity plan, HSV will discuss these with the health service.

10.7 Review of On-selling Arrangements

HSV will review the register of on-selling activities in accordance with the requirements set out in the HSV Purchasing Policy 5. Collective Purchasing and Supply Chain.

HSV will follow-up with health services where further information is required; for example, where approval is required or where on-selling arrangements do not comply.

Activity Reports Summary	
Procurement activity plan, contract register, register of on-selling activities	31 May of each financial year
Responsibility for reporting	CPO

11. Compliance Monitoring and Escalation

11.1 Monitoring of Health Service Compliance

One of the functions of HSV under section 131(d) of the Act is to monitor compliance by health services with the HSV Purchasing Policies and HSV directions and to report irregularities to the Minister.

As part of the HSV Compliance Framework, HSV requires health services to undertake a range of activities including reporting to enable HSV to monitor compliance and ensure probity within health services' procurement functions.

HSV will review all reports received by health services and may query submissions if further information is required, there are anomalies between submissions and HSV records, or where insufficient reasons have been provided for non-compliance issues.

HSV will monitor all issues of non-compliance with the HSV Purchasing Policies and HSV collective agreements, as well as with all probity breaches identified as part of the framework:

- non-compliance with the HSV Purchasing Policies or breaches of probity
- recommendations for improvement to prevent potential non-compliance issues from occurring in the future
- actions to address both non-compliance issues and recommendations for improvement from health service auditors
- indicative timeframe for the implementation of actions to address non-compliance or recommendations for improvement

HSV will regularly monitor these registers and health services concerned will be required to provide regular reports on actions taken to address the issues.

HSV will provide a summary of these issues to the HSV Board on a biannual basis, together with actions taken to address the issues and any residual risks.

11.2 Identification of Non-Compliance Issues

Probity or other non-compliance issues may be identified by a health service or by HSV in a range of situations, for example:

- by health service staff
- as part of HSV's compliance monitoring function through the annual compliance self-assessment, scheduled compliance audits, spot audits, submission of procurement activity plans and contract data, or other activities.
- through other requests for information by HSV or dealings with a health service

11.3 HSV Powers

In carrying out this monitoring function, where HSV becomes aware of either a breach of probity or noncompliance with the HSV Purchasing Policies, HSV may take any of the actions set out under section 132 of the Act.

In determining which actions are appropriate in a given situation, HSV will consider all the circumstances with reference to the HSV Escalation Principles.

11.4 Guidance on HSV Escalation

The following steps are an example of the process that HSV may follow to resolve a breach of probity arising in a health service procurement event or non-compliance with HSV Purchasing Policies.

The steps that HSV will take in each case will vary depending on the circumstances of the breach. It is at the discretion of HSV to determine which actions are appropriate in any given circumstances; however, where possible HSV will work with the health service concerned to resolve the issue prior to escalating an issue.

1. Notify the health service of the issue
2. Provide the health service with support and education to assist in resolving the issue
3. If requested, consult with the health service to seek agreement on actions to be taken to address the issue
4. Request that the health service take specific actions to address the issue if required including but not limited to:
 - requesting that the health service engage a probity advisor or probity auditor
 - requesting that the issue be referred to the health service AO
 - referring to the HSV Board for direction on appropriate actions to resolve the issue
5. Request a written statement from the health service AO regarding the health service's actions to address the issue including an indicative timeframe for implementing these actions
6. Monitor the issue and any actions taken to address it by requesting information on the matter from the health service AO on a regular basis (every six months or as deemed necessary)
7. If actions are not being addressed or a significant non-compliance issue arises, request that the health service AO conduct an initial or further audit of compliance with the Health Purchasing Policies and provide audit reports to HSV
8. Report the issue to the:
 - HSV Board
 - Department of Health (DH)
 - Minister for Health (the Minister)

11.5 Escalation Principles

In considering whether to report the issue to DH and/or the Minister, HSV will consider a number of factors at its discretion, which may include but are not limited to:

- advice and recommendations of a probity advisor, probity auditor or legal advice
- extent and nature of the risk
- whether the health service has been given a reasonable opportunity and taken reasonable actions to address the issue
- whether the issue has been resolved
- if the issue has not been resolved, whether the reasons for the issue remaining are reasonable
- any other matters set out in section 133 of the Act

11.6 Escalation to DH or the Minister

Where HSV considers it is appropriate, for example where there is a significant breach of probity or non-compliance with the HSV Purchasing Policies, the HSV Board may report a matter to DH and/or the Minister immediately.

In the event that an issue is escalated to DH and/or the Minister, HSV will keep the relevant health service informed regarding any correspondence HSV receives on the matter.

12. Compliance Information and Support

12.1 Complaints

Where a mandated health service has a complaint relating to a HSV decision or action, the complaint should be directed to the HSV CE as the delegated representative of the HSV Board.

Complaints will be managed in accordance with the HSV [Complaint Management Policy](#).

12.2 Communication

HPV will share updates on the HSV Compliance Framework via the following methods:

- Communications to the Health Service CE and/or CPO
- HPV compliance webpage accessible by CPOs and others granted access
- Monthly external newsletter HPV Update (opt in by adding email address at www.healthsharevic.org.au)

Contacts

Please direct any queries to the HSV Compliance Team.

Email: compliance@healthsharevic.org.au

Phone: +61 3 9947 3700

13. More information

Related documents and templates are available on the HSV website.

14. Disclaimer

The information presented in this document is general in nature and based on HealthShare Victoria's interpretation of the Health Services Act 1988 (Vic) and any ancillary legislation and regulations in effect at the time, and should not be relied upon as legal advice. Please consider seeking professional and independent advice from your legal representative as to the applicability and suitability of this information and the legislation to your own business needs or circumstances.

Appendix 1: Glossary

Term	Definition
<p>Probity</p>	<p>Probity is the evidence of ethical behaviour in a sourcing process. It means acting according to strong moral principles of honesty and decency and complying with (and being able to demonstrate compliance to) probity principles, guidelines and requirements. Maintaining probity involves more than simply avoiding corrupt or dishonest conduct. Probity requires the application of public sector values such as impartiality, accountability, transparency and fairness.</p>
<p>Probity Principles</p>	<ul style="list-style-type: none"> • Accountability of the participants and transparency of procurement processes. • Fairness and impartiality in carrying out procurement-related processes • Management of actual, potential and perceived conflicts of interest • Maintenance of confidentiality and security of documentation and information • Attainment of value for money under the prevailing circumstances • Establishing a complaints process
<p>Probity Assurance Framework</p>	<p>A probity assurance framework involves establishing the necessary processes and procedures to implement a risk-based approach to ensuring that the probity oversight of procurement activities is commensurate with the probity risk. It will determine the extent and type of probity advice and the level of expertise required for an activity, and whether the advice is sought internally or outsourced to a qualified probity practitioner.</p>
<p>Procurement Activity</p>	<p>A process by which a buyer engages the market to request suppliers to respond to a sourcing need. That is, it is the process for requesting prices and proposals from the market. Types of procurement activities are; invitation to supply (ITS), request for quotation (RFQ), request for proposals (RFP), a request for tender (RFT) and expression of interest (EOI). A procurement activity may be restricted, where the offer is extended to a restricted list of suppliers or open, where the offer is advertised and open to any supplier wishing to respond.</p>
<p>Probity Advisor</p>	<p>A probity advisor is an external consultant engaged to work in a procurement team under the direction of the category manager or lead. A probity advisor will provide advice on the establishment of probity arrangements in a procurement process such as information management protocols and input into the development of invitation to supply documents. A probity advisor cannot sign off on a procurement process if independent assurance is required.</p>
<p>Probity Auditor</p>	<p>A probity auditor is a external consultant who reviews procurement processes to provide independent assurance that the process complies in all material aspects with relevant procurement policies, procedures and guidance. A probity auditor is independent of the procurement team and their reports are for senior levels of management in the organisation.</p>

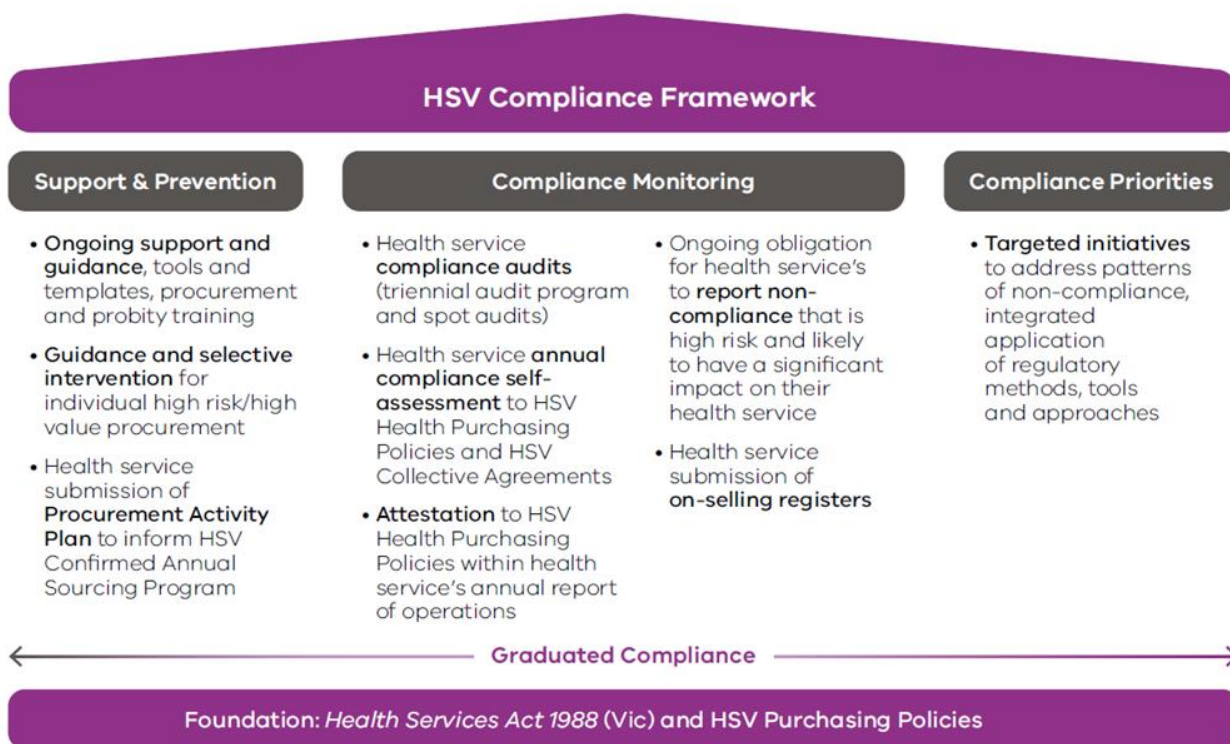
Value for Money (VFM)	Involves a balanced judgment of financial and non-financial factors. Typical factors include fitness for purpose, quality, whole-of-life costs, risk, environmental and sustainability issues and price.
'Material' noncompliance issue	A 'material' non-compliance issue is defined as a compliance or probity issue relating to the HSV Purchasing Policies that a reasonable person would consider has a material impact on the health service, regulatory body (HSV) or State with reference to the nature and extent of the risk as defined by the health services' risk management framework.
Non-compliance issue	Any failure to comply with the requirements set out in the HSV Purchasing Policies 1-5. In relation to HSV Collective Agreements that are mandated for the health service in question, the health service is not compliant with the terms and conditions of the contract, or has sourced product(s) or service(s) via an alternate supplier that: <ul style="list-style-type: none"> • are within the scope of product(s) or service(s) covered by a HSV contract • were not acquired under the HSV contract • there is no formal exemption from HSV
Exempt	The health service has applied for and received an exemption from HPV in accordance with the process set out in the HSV Purchasing Policy 5. Collective Purchasing and Supply Chain and the HSV Exemption Guideline either for a defined range of products or services or for the entire contract.
On-selling	On-selling occurs if an entity purchases goods or services under a HSV collective agreement and then re-supplies the goods to another entity. This includes the provision or sale of goods or services to a separate entity (e.g., another health or related service or non-health entity) through the provision of warehousing and logistics services or otherwise, including where goods or services are provided at no cost, possibly under the terms of another agreement e.g., provision of clinical or non-clinical services, tenancy, public private partnership (PPP) etc
Collective Purchasing Agreement / Collective Agreement	A Collective Purchasing Agreement, also referred to in the Health Purchasing Policies as a Collective Agreement or Collective Purchasing Arrangement, is a contract for the purchase of goods or services for the benefit of two or more entities. A Collective Agreement may be established by HPV on behalf of Participating Health Services.
Attestation	An attestation is a personal commitment from the accountable officer of an organisation's compliance with certain regulatory requirements.

Appendix 2: HSV Compliance Framework

A HSV Compliance Framework has been established and approved by the HSV Board to clarify HSV’s legislative functions and to assist health services in ensuring policy compliance by setting out a compliance program and the obligations of both HSV and mandated health services.

The framework comprises a multi-faceted approach set out below involving:

- support and prevention activities: education, training, advice, guidance, and selective intervention in health services’ procurement events
- compliance monitoring activities: annual compliance self-assessments, compliance audits and submission of a procurement activity plan and contracts register, with monitoring of corrective actions and escalation of non-compliance
- compliance priorities: targeted initiatives to address patterns of non-compliance, integrated application of regulatory methods, tools and approaches.



Appendix 3: Annual Compliance Self-Assessment Criteria

To complete the HSV annual compliance self-assessment, mandated health services will be required to select from the criteria set out below. If there are areas of partial or non-compliance, health services will be asked to provide detailed reasons for all areas of non-compliance and any actions being taken to address these issues.

Criteria	Definitions
1. Compliant	The health service is compliant in all respects with the requirements of the HSV Purchasing Policy.
2. Partially Compliant	The health service is compliant with the majority of the requirements within in the HSV Purchasing Policy. For all instances of non-compliance, please specify in the comments box provided: <ul style="list-style-type: none"> • the specific areas of non-compliance and the • actions being taken to address non-compliance issues • the anticipated date that these actions will be completed
3. Not Compliant	The health service is not compliant with the requirements of the HSV Purchasing Policy. For all instances of non-compliance, please specify in the comments box provided: <ul style="list-style-type: none"> • the specific areas of non-compliance and the • actions being taken to address non-compliance issues • the anticipated date that these actions will be completed
4. Exempt	The health service has applied for and received an exemption from HSV for a requirement(s) or all of a HSV Purchasing Policy.
5. Not Applicable	The particular requirement is not applicable to the health service.

Appendix 4: Summary of Health Service & HSV Responsibilities

Role	Description
HealthShare Victoria (HSV)	HSV has functions under section 131 of the Act including monitoring health service compliance, ensuring probity in the procurement activities of health services, and the provision of support and education to health services to improve procurement practices across the Victorian health sector.
Health Service Board	The health service Board is accountable for ensuring the health service complies with the Act and HSV Purchasing Policies.
Health Service Accountable Officer (AO)	The health service AO has overall responsibility for the health service procurement function. The AO is responsible for reviewing and endorsing compliance activities and actions and for formal communications with HSV and the health service Board.
Health Service Chief Procurement Officer (CPO)	The health service CPO is responsible for strategic oversight of the health service procurement function and the provision of expert advice and guidance to their health service executives and Board.

Role	Responsibility
Responsible (R)	Responsible for completing the activity.
Accountable (A)	Bears overall accountability for the activity and non-compliance issues raised.
Support, monitor and escalate non-compliance issues where required.(S)	Responsible for monitoring and overseeing requirements under the HSV Purchasing Policies and providing support and guidance to assist towards these ends.

Compliance Activity	Health Service CPO	Health Service AO	Health Service Board	HSV
Ensure Probity	R	A	A	S
HSV Audit Program and Spot Audits	R	R / A	A	S
Annual Attestation to HSV Purchasing Policies in health services' annual report of operations.	R	R / A	A	S
Annual Self-Assessment to HSV Health Purchasing Policies and Collective Agreements	R	R / A	A	S
Annual Submission of Health Service Activity Reports: <ul style="list-style-type: none"> • Procurement Activity Plan • Contract Register • Register On-selling Activities 	R	A	A	S