

# **Children and Young People (Care and Protection Organisations and Responsible Persons – Suitability Approval Application) Guidelines 2018 (No 1)**

**Disallowable Instrument DI2018-95**

made under the

**Children and Young People Act 2008, Section 62 (Entity may apply to be suitable entity for a purpose)**

## **EXPLANATORY STATEMENT**

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### **1. Introduction**

This section outlines the Human Services Registrar’s regulatory responsibilities on behalf of the Director-General. The primary and preferred method of ensuring compliance is through regulatory engagement.

This guideline is one of three that will guide the overall operation of approved care and protection organisations in accordance with the Act and underpinned by the *Children and Young People Regulation (2009)*.

### **2. Regulation of Care and Protection Organisations**

Under section 63 of the Act, the director-general may approve an entity as a suitable entity for a stated purpose if satisfied that the entity is suitable for the purpose. Part 10.4 of the Act articulates the director-general’s regulatory powers to monitor compliance of organisations with the Act, investigate complaints about an organisation and record and make certain information about an organisation publicly available.

### **3. Separation between regulation and policy funding activities**

This section articulates the separation between the HSR’s regulatory functions and other areas of the Community Services Directorate that have responsibility for policy and funding activities.

#### **4. Approved Care and Protection Organisations**

Under the Act, only approved care and protection organisations can provide a care and protection purpose in the ACT. This section discusses the requirements for approval and lists the care and protection purposes which may be applied for.

#### **5. Purpose of this guideline**

This section discusses the function of this, and associated guidelines, in administering the Act and supporting the day-to-day operation of the legislation. The guideline is consistent with the Care and Protection Organisation Standards 2018 and the Out of Home Care Standards, 2016.

#### **6. Principles of Regulation**

This section outlines the principles of regulation applied by the HSR in relation to Care and Protection Organisations.

#### **7. Risk based Regulation**

A proportionate approach, involving different levels of regulatory engagement, dependent on the approved care and protection organisation's risk profile, will be applied by the HSR. This section includes depiction of the triggers and scope for action, regulatory sanction and support.

#### **8. Enforcement Powers**

This section identifies that there are a range of enforcement powers available to the HSR. These are further specified in the Approved Care and Protection Organisation – Intervention Guidelines.

#### **9. ACT Care and Protection Organisation Standards**

The ACT Care and Protection Organisation Standards will be used as the basis for assessing and monitoring care and protection organisations. This section introduces the Standards and identifies the five Domains relating to quality, safety, capacity and capability.

#### **10. Suitable Entities**

This section provides the definition of, and assessment requirement, for suitable entities under the Act. Additional assessment requirements are noted for both organisations and responsible persons.

#### **11. Suitability Information**

Suitability Information to be considered by the director general, as defined by the Act, is listed in this section.

## **12. Application Process**

This section discusses the process and evidence requirements for suitable entity assessment by the HSR.

## **13. Assessment of Application – Suitable Entity (Organisation)**

This section discusses the process of assessing an organisation for a Care and Protection Purpose, including evidence portfolio, gap analysis and assessment of evidence.

## **14. Assessment of Application – Suitable Entity (Responsible Person)**

This section discusses the process of assessing a Responsible Person for a Care and Protection Organisation. This includes assessment by panel.

## **15. Decision on Suitability**

The organisation can be approved once both the organisation and at least one responsible person have been assessed as suitable.

## **16. Care and Protection Organisation Register**

Under section 352V of the Act, the director-general is required to maintain a publicly accessible register of organisations that have been approved as a suitable entity for a care and protection purpose. This section lists the details that must be included on the register.

## **17. Ongoing Compliance Assessment**

The HSR has a system to monitor on-going compliance with the suitable entity criteria. This section refers readers to the Approved Care and Protection Organisation – Monitoring Guidelines.

## **18. Reviews and Appeals**

This section specifies that under the Act, Care and Protection Organisation and Responsible Person entities are reviewable decisions. It lists some of the types of decisions that are reviewable and some of the requirements that apply when seeking a decision review.