

Review of the Regulations of Supported Residential Services in Victoria, 2008

AMIDA & STAR response

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The current laws protect residents by setting standards for care and accommodation, and protecting their finances and individual rights.

1. How well do you think the current laws meet the goal of protecting residents? Do you think there are gaps? What are they, and why are they important?

It seems that legislation and regulations do not protect the rights of residents enough.

Under the Disability Services Act 2006 service providers have specific duties to ensure residents rights. The Health Services Act should at least equal the DSA. The Residential Tenancies Act is a better rights framework for the residential rights and should cover SRSs but at very least SRSs should have a framework equal to DSA, including an independent complains commission such as Disability Services Commissioner.

Currently the main way residents are protected is by making it compulsory for all SRS to be registered, and having minimum standards of accommodation and support.

2. Are there other ways residents could be effectively protected? Explain

Disability Services are often supportive of resident groups who can learn about their rights and how to appropriately exercise these rights. If these kinds of groups were encouraged in SRSs, a culture which supports and protects residents' rights would begin to exist within the services.

The current laws cover all SRS, large and small.

3. Do smaller facilities need the same level of regulation as larger facilities: Why?

Yes. They are providing the same service to people, so the same regulations should apply.

The current definition of SRS is broad, with only Commonwealth funded residential aged care excluded. This means that a wide range of options where people receive both accommodation and support fall within these laws.

4. Are there any problems with the current definition of SRS? If yes, what are they?

Not a problem if better rights protections and avenues for complaint to independent body exist.

5. Are there other accommodation options that should be excluded from SRS regulation? Why?

Under the current laws residents are required to receive a residential statement that sets out information about what services they will receive and the responsibilities of proprietors and residents themselves.

We would be very concerned at any reduction in the regulatory requirements and especially if services became exempt from these regulations.

6. Do you think that current arrangements for providing information to residents work? If you believe there are gaps, how might these be addressed?

It does not appear that people do have the information they are supposed to have.

A culture in services, which is comfortable with, and encouraging of residents discussing their rights and responsibilities, would assist immensely in people having information they are supposed to have. Outside groups such as advocacy and self-advocacy groups could convene residents meetings.

Under the current laws, there are several ways residents and their representatives can make complaints or give feedback on services provided. Including speaking directly with the proprietor and making a complaint to the Authorised Officer or Community Visitor.

7. Do you think that the current arrangements for residents to provide feedback or make complaints work? If you believe there are gaps, how might these be addressed?

This would be one of the pieces of information people are supposed to have, that they often do not have. People do not know they can complain or how to do this.

This system does not work. People know they can be asked to leave for no reason and that months after making a complaint this could happen. In addition, retribution occurs via reduction in service or attitude of staff.

The current laws require residents' privacy, dignity and other individual rights to be respected.

8. Do you think the current laws sufficiently protect other individual rights of residents? Which rights are they? If you believe there are gaps, how might these be addressed?

No - because they do not make it the duty of proprietors, managers and staff to ensure these rights.

The current SRS laws provide some protections for residents finances, but things like up-front payments and return of money when residents no longer live in an SRS are not specifically covered.

9. Do you think that current arrangements for protecting residents finances work? If you believe there are gaps, how might these be addressed?

These things should be covered. For example, the administrator had not sent the upfront payment through on a Friday so the proprietor took a cash upfront payment from the resident and later denied the money had been taken and only repaid it when challenged by DHS case worker.

The current laws set minimum requirements about SRS buildings and their maintenance. Including requirements for a 'home-like' environment.

10. Do you think that current SRS laws regarding standards of accommodation work? If you believe there are gaps, what are they and how might these be addressed?

No, the laws governing standards of accommodation do not work. Tougher requirements to do maintenance are required such as the RTA.

SRS provide care to a diverse population group, and sometimes resident's behavior may be a risk to themselves or others. While the current laws provide some occupancy rights for residents, sometimes individual residents need to be moved to protect the interests of other residents, staff or themselves.

11. Do you think that current laws relating to SRS regarding occupancy effectively balance the rights of individual residents with those of other residents, staff and proprietors? If you believe there are gaps, what are they and how might these be addressed?

There is often not enough support to people who have behavioural problems. If tenancy is at risk proprietors should be obliged to seek all avenues of support such via DSH, Mental Health.

The ratio of 1:30 is unworkable where people require support.

SRS proprietors must ensure residents have proper care, and the current laws set minimum standards for 'special or personal' care.

12. Are the current standards for 'special or personal care' still suitable as a minimum for all SRS? Why?

No – we know of cases where people are only receiving support for showering once a week, so despite the minimum standards these are not followed or defined in substandard ways.

In some cases, SRS proprietors agree to provide services that go beyond 'special or personal' care as defined in the law. Currently when an SRS provides these additional services these services are listed in the Residential Statement.

13. What services do SRS provide that are beyond 'special or personal care' as defined in the law? Should SRS provide these services? Why?

Only if they are qualified to provide these services.

Information about a resident's care must be written in the resident's care plan. This information guides care provided to the resident.

14. Do you think that the current approach to care planning works? If you believe there are gaps, how might these be addressed?

The practice of just carrying on the old care plan to the New Year is not satisfactory. The plan should consider whether changes should or need to be made. They also need to be implemented, not just kept in a filing cabinet and taken out at the next review, or if someone wants to see them. They need to be put into practice and be detailed to specify amounts of care and service delivered weekly. 1:30 ratio will make decent service provision impossible. This needs to change.

Proprietors have to fulfill minimum staffing requirements, with enough staff with the right skills to meet residents' care needs.

15. Are the current staffing requirements suitable as a minimum for all SRS? Why?

Lack of care, when untrained, and too few staff are employed, leaves residents vulnerable, with little support and little opportunity to access the community. The fact that the proprietor may not be the landlord, and may employ a manager, removes the proprietor of the business from day to day running of the SRS. Because the proprietor of the business is not involved on a day-to-day basis, should not mean he has no responsibility for the service provided at the SRS.

Unless the manager is trained, experienced in both service provision and business management, there is room for confusion on what his priorities should be.

Ongoing training of proprietors, managers and staff is necessary to both educate about changes in community attitude, facilities and supports available in the community, and also the latest requirements by the department of Human Services in their overseeing of the SRS system.

The minimum staffing requirements appear to be insufficient to meet the needs of some residents, or some circumstances, for example if someone becomes ill.

Anyone wishing to be an SRS proprietor (business Owner) must be assessed by the department as being suitable for such a role.

16. Could the department improve the way it assesses the suitability of SRS proprietors? If yes, how?

Proprietors would need to show business acumen, as well as knowledge, and preferably experience in service provision. Opportunities should be available for people with no knowledge, to learn before they apply for proprietorship. It is a specialized field, and the need for knowledge seems like common sense.

Ongoing training, with updates and revisions of practice should be available and mandatory.

If the proprietor is not the manager, then the manager must also be appropriately experienced and trained, and should also receive ongoing training and support.

If training, experience and ongoing support are not available (and mandatory), this will impact significantly on the people the proprietor is applying to provide service for.

Current registration involved assessing suitability of proprietors. Some proprietors may have little direct involvement in the day-to-day running of facilities, even though they are legally responsible for breaches of the law.

17. Where proprietors are not involved in the day-to-day operation of the SRS, should the person who has day-to-day responsibility for running the SRS also be assessed?

Yes. As mentioned above, both the proprietor and the manager need ongoing training and updates on changes to regulations, and expectations within the community. The proprietor must ensure that the person employed as the manager can do the job.

SRS premises must meet minimum requirements on things like building design and construction comfort and location.

18. Could the department improve the way it assesses the suitability of premises for registration? If yes, how?

Accessibility is lacking in many SRSs. This should be a requirement. Assessment should be approached from the perspective of a person with mobility impairment. Many residents, while mobile, are unsteady or unable to negotiate steps.

In situations where there is evidence that the safety and wellbeing of residents is at risk, the current laws provide for the appointment of an administrator.

19. Are the current arrangements for administrator appointments suitable, or should alternative approaches be explored?

Yes

This review is about making sure regulations protect the safety and well-being of SRS residents, while looking at other ways such protection can be provided.

20. Are there other issues that you believe should be considered as part of this review? Are there any additional comments you would like to make about regulation of SRS?

- We don't want a substandard system propped up by token funding. We believe regulations equal to Federal Nursing Home Regulations, massive training on these requirements and independent complaints mechanism should be put in place before proper funding is put in place.
- Registration process needs to be tighter:
 - Owner should be assessed
 - Manager should also be assessed
 - Stricter registration for owners who have been de-registered
 - Lack of English skills
 - Medical knowledge
- DHS Authorized Officers and proprietors need improved relationship
- Authorised officers need training on SRS
- Consistency of expectations of proprietors

- If an independent complaints commission existed it could resource Authorised Officers and encourage their role in resolving issues before they get to the Commission level.

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