

Future directions for supported residential services (SRS)

## Discussion sheet 1:

# Objectives and principles of the legislation

The current SRS regulatory scheme is being updated. Changes are proposed to the existing scheme to enhance protection for people living in SRS and to ensure the scheme is contemporary and provides flexibility to meet the needs of the industry into the future.

**The inclusion of SRS in the *Health Services Act 1988* along with hospitals and other health service establishments means that much of the legislation does not apply to SRS. This has led to confusion for both those in the industry and those who interact with the industry. A new set of objectives and principles are required that are more specific to the regulation of SRS and provide clear expression of the rights and obligations of residents and proprietors.**

### What we know

- The objectives of any legislation should describe the purpose(s) of that Act clearly and succinctly and describe the major elements of the regulatory scheme.
- The objectives set out in the current Act relate mainly to 'health care agencies' – primarily public and private hospitals, funded agencies and multipurpose centres. The objectives therefore refer to providing high-quality health services, the use of public funds and purchasing arrangements and some protection for users of health services and health care workers. As such, many of these objectives have no application to SRS.
- As a result there are perennial complaints that the current regulatory scheme is difficult to understand and enforce because the language of the Act is complex and hard to follow. This means that compliance can be difficult for proprietors to achieve and for authorised officers to assess, and in many cases the offence provisions are not clear-cut.
- The principles of the Act are focused on residents in SRS and require these services to:
  - provide accommodation and personal care
  - permit choice of health care provider
  - provide sufficient nutrition, warmth, clothing and shelter in a safe, home-like environment
  - uphold a range of residents' rights including the right to: choose to participate in activities; be treated with dignity and respect; freedom of choice; privacy; choose and pursue friendships and relationships with members of either sex; practice religion and cultural customs; and manage their own finances wherever possible.
- While these principles are relevant to SRS they are currently very general and in some cases include services that are beyond the scope of SRS to provide. It is important for both residents and proprietors to have clarity around the principles of the legislation as these guide the standards of service that can be expected.

- A set of new objectives and principles that define the intended outcomes to be achieved by SRS is proposed. SRS stakeholders will benefit from the clarity of language in the legislation as a whole as well as its reorganisation.

## New directions – proposed legislative reforms

The precise wording of the new legislation is a matter for Chief Parliamentary Counsel in the drafting process. However, it is important to articulate the intention of the legislation.

### **Proposal: To set objectives that clearly define the intended outcomes to be achieved by the legislation and the mechanisms of achieving them.**

The objectives of the legislation should reflect:

- the protection of the safety and wellbeing of residents living in SRS
- the development, implementation and enforcement of appropriate standards of accommodation and personal care services to residents
- the provision of an effective regulatory system for SRS that ensures:
  - proprietors and staff are appropriately qualified and capable of meeting the standards imposed
  - registration processes are streamlined and efficient
  - monitoring and enforcement measures are fair, effective and balanced.

### **Proposal: To introduce a set of principles more relevant to providing accommodation and personal care to people living in SRS in Victoria.**

It is proposed that the new legislation be founded on the following principles. When providing accommodation and personal care SRS should:

- respect the human rights of individuals
- support the health and wellbeing of residents
- support and promote the independence of residents to the fullest extent possible
- support and promote the inclusion of residents within the community
- provide appropriate and comfortable accommodation for residents.

For each principle, the rights of the resident and the expectations of the service are defined below.

#### **Principle 1: Respect the human rights of residents**

<b>Resident rights</b> Residents have the right to:	<b>Expectations of the SRS</b> The SRS will:
<ul style="list-style-type: none"> <li>• Privacy</li> </ul>	<ul style="list-style-type: none"> <li>• Provide residents with suitable measures for personal privacy</li> <li>• Respect and protect the privacy of residents’ personal information</li> </ul>
<ul style="list-style-type: none"> <li>• Be treated fairly and equally with other residents</li> </ul>	<ul style="list-style-type: none"> <li>• Demonstrate freedom from discrimination and exploitation in the delivery of services to residents</li> </ul>
<ul style="list-style-type: none"> <li>• Be treated with dignity and respect</li> </ul>	<ul style="list-style-type: none"> <li>• Respect the views and beliefs of residents</li> <li>• Consult with and involve residents in plans for care and service delivery</li> <li>• Deliver services by means that preserve and protect residents’ dignity and take account of their individual preferences</li> <li>• Protect residents from bullying or abuse by staff or other residents</li> </ul>
<ul style="list-style-type: none"> <li>• Express themselves freely and without repercussions</li> </ul>	<ul style="list-style-type: none"> <li>• Provide opportunities for residents to have their say about things that matter to them</li> <li>• Ensure that residents are not adversely affected by expressing their views</li> </ul>

## Principle 2: Support and promote the health and wellbeing of residents

<b>Resident rights</b> Residents have the right to:	<b>Expectations of the SRS</b> The SRS will:
<ul style="list-style-type: none"> <li>Be involved in deciding the care and support services they need</li> </ul>	<ul style="list-style-type: none"> <li>Consult with residents in planning for service provision to the resident and take their wishes into account to the extent possible</li> </ul>
<ul style="list-style-type: none"> <li>Involve others in reaching decisions about their care and support</li> </ul>	<ul style="list-style-type: none"> <li>Involve others nominated by the resident in the decision-making process</li> </ul>
<ul style="list-style-type: none"> <li>Consult their own health care professionals</li> </ul>	<ul style="list-style-type: none"> <li>Involve the residents' health care professionals in the planning of service delivery</li> <li>Encourage the resident to have regular check-ups by their health care professionals</li> </ul>
<ul style="list-style-type: none"> <li>Have access to health services within the community for which they are eligible</li> </ul>	<ul style="list-style-type: none"> <li>Facilitate residents' access to health services within the community</li> </ul>

## Principle 3: Support and promote the independence of residents to the fullest extent possible

<b>Resident rights</b> Residents have the right to:	<b>Expectations of the SRS</b> The SRS will:
<ul style="list-style-type: none"> <li>Make decisions, even where the decision may run counter to the views and expectations of others (provided they do not unreasonably affect the human rights of others)</li> <li>Engage in activities that have an element of risk, so long as they do not put others at risk</li> </ul>	<ul style="list-style-type: none"> <li>Allow residents to make their own decisions as much as possible</li> <li>Support residents where appropriate in giving effect to their decisions</li> <li>Allow residents to manage their own legal and financial affairs to the extent possible</li> <li>Seek appropriate help if residents are not able to manage their financial and legal affairs or make other decisions about their own wellbeing</li> <li>Protect residents from risks where residents are unable to protect themselves</li> <li>Refrain from exploiting residents or taking advantage of their vulnerabilities</li> </ul>

## Principle 4: Support and promote the inclusion of residents within the community

<b>Resident rights</b> Residents have the right to:	<b>Expectations of the SRS</b> SRS staff will:
<ul style="list-style-type: none"> <li>Be involved in their community on an equal footing with others</li> </ul>	<ul style="list-style-type: none"> <li>Make themselves familiar with programs and services in the community relevant to the needs of residents</li> <li>Facilitate contact between residents and the providers of relevant programs and services</li> </ul>

## Principle 5: Deliver acceptable standards of service to residents

<b>Resident rights</b> Residents have the right to:	<b>Expectations of the SRS</b> The SRS will:
<ul style="list-style-type: none"> <li>Be consulted about their care and support needs</li> </ul>	<ul style="list-style-type: none"> <li>Consult residents about their care and support needs on admission, when their care and support needs change and otherwise at regular intervals</li> </ul>
<ul style="list-style-type: none"> <li>Receive competent care and support</li> </ul>	<ul style="list-style-type: none"> <li>Tailor care and support services to the needs of individual residents</li> <li>Ensure that appropriate staff are available to deliver services to residents</li> </ul>
<ul style="list-style-type: none"> <li>Receive support and care as and when they need it</li> </ul>	<ul style="list-style-type: none"> <li>Develop a program of support for individual residents</li> <li>Deliver support services to residents as required by the SRS care plan</li> <li>Ensure staff are available to deliver support and care services at the times they are needed</li> </ul>
<ul style="list-style-type: none"> <li>Receive information on their accommodation arrangements, rights and entitlements to services from the SRS</li> </ul>	<ul style="list-style-type: none"> <li>Provide clear and comprehensive information about how services will be delivered</li> <li>Provide a clear statement of the contractual rights and obligations of residents and the SRS, including an explanation of how these rights and obligations may be changed or ended</li> </ul>

<ul style="list-style-type: none"> <li>Complain about the SRS or the services provided, without fear of retribution</li> </ul>	<ul style="list-style-type: none"> <li>Establish procedures to enable a resident to make a complaint confidentially</li> <li>Establish procedures for handling complaints and reporting back</li> <li>Make residents aware of the complaints management process</li> <li>Ensure complaints are dealt with promptly and fairly</li> </ul>
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## Principle 6: Provide appropriate and comfortable accommodation for residents

<b>Resident rights</b> Residents have the right to:	<b>Expectations of the SRS</b> The SRS will:
<ul style="list-style-type: none"> <li>Physical privacy within their accommodation</li> </ul>	<ul style="list-style-type: none"> <li>Provide accommodation that affords reasonable opportunity for privacy</li> <li>Comply with the space requirements of the department's design guidelines as determined at registration of SRS</li> </ul>
<ul style="list-style-type: none"> <li>Live in clean, well-maintained surroundings</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that premises are well maintained and kept clean</li> </ul>
<ul style="list-style-type: none"> <li>Suitable heating and cooling to maintain physical comfort</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that the temperature at the premises is maintained and regulated at comfortable levels to residents</li> </ul>

These principles and expectations are expressed in such a way as to convey that they are the collective responsibility of the proprietor and staff, even though it may be the proprietor alone who is ultimately accountable.

These principles provide a framework for the development of proposed standards of accommodation and personal care for SRS. Refer to *Discussion sheet 7* for details on proposed standards.

## What's new?

The table below summarises the requirements that will be retained from the current regulatory scheme and the new requirements being introduced.

<b>Status</b>	<b>Requirements</b>
New	<p>A coherent set of objectives and principles that define the intended outcomes to be achieved by SRS is proposed.</p> <p><i>Anticipated date of effect: immediately after the legislation is passed.</i></p>

## Frequently asked questions

### Q.1 What will be the objectives of regulating SRS?

**A.** The objectives of legislating SRS will reflect the need to protect the safety and well-being of residents living in SRS and ensure SRS provide accommodation and personal care services in accordance with standards.

### Q.2 How will the objectives be achieved?

**A.** The objectives will be achieved by having an effective regulatory system for SRS that: registers proprietors and managers who operate SRS; monitors performance of facilities against set standards; and achieves compliance of standards through the legislation.