

**THE SUPPORTED RESIDENTIAL
FACILITIES ACT 1992**

Guidelines and Standards

Third edition

July 2011

***The Supported Residential Facilities
Advisory Committee***



Government of South Australia
Department for Families and
Communities

THE SUPPORTED RESIDENTIAL FACILITIES

ACT 1992

and

Regulations 2009

Guidelines and Standards



Third Edition

Supported Residential Facilities Advisory Committee

July 2011

Preface	1
Introduction	2
1. Purpose of the Guidelines.....	2
2. Objects of the Act.....	2
3. Principles of the Legislation	3
4. Conclusion	7
Operational Guideline 1: The Prospectus for a Facility	8
1. Introduction.....	8
2. Contents of the Prospectus	8
2.1 General	8
2.2 Accommodation	9
2.3 Services provided	9
2.4 Staffing.....	9
2.5 Terms and conditions.....	10
Prospectus (Sample)	13
Operational Guideline 2: Resident Contracts and Service Plans and Schedule 3 Statements.....	27
1. Introduction.....	27
2. Contents of the Resident Contract and Service Agreement.....	29
2.1 Contract	29
2.2 Accommodation	30
2.3 Service Plan.....	30
3. Monitoring and Review of the Service Plan.....	33
4. Terms and Conditions	34
5. Rescission of Contract	34
Operational Guideline 3: Standards of Care and Accommodation.....	49

1. Introduction.....	49
2. The Importance of Staffing	49
3. Specific Standards of Care - Personal Care.....	51
3.1 Admission procedures	51
3.2 Privacy, dignity and respect	52
3.3 Confidentiality	53
3.4 Personal hygiene and health	54
3.5 Medication	63
3.6 First Aid.....	65
3.7 Specific Standards of Care - Physical Care	66
3.8 Bedrooms	67
3.9 Lighting	70
3.10 Nutrition	70
3.11 Mobility.....	75
3.12 Activities and independence	76
3.13 Notification of certain events.....	77
3.14 Personal finances	79
3.15 Records	80
3.16 Other environmental standards.....	80
Operational Guideline 4: Extension of Care.....	83
1. Provisions of the Act.....	83
2. Regulations	83
3. Definitions and Interpretations.....	84
4. Residential-only Premises	86
Operational Guideline 5: Residents' Rights to Representation	87
1. Legislation	87
2. Appointment of Representatives	87

3. Medical, Dental and other Health Professional Treatment Consent	88
3.1 Relevant legislation	88
3.2 Informal arrangements	89
3.3. Formal arrangements - guardians and medical agents	89
3.4 Legal documents and the Guardianship Board	90
4. Role and Responsibilities of Representatives	90
5. Removing Representatives	91
Operational Guideline 6: Orderly Conduct and Management of Disorderly and Difficult Behaviour.....	92
1. Legislation	92
2. Disorderly Behaviour	92
3. Difficult Behaviour	94
4. Assessing Behaviour	94
5. Management of Agitated and Aggressive Behaviour.....	95
6. Restraint.....	96
7. Wandering Behaviour	97
Operational Guideline 7: Disputes and Complaints	99
1. Introduction.....	99
2. Minor Complaints and Disputes.....	101
3. Complaints/Disputes Requiring Formal Procedures.....	102
4. Disputes and Complaints requiring Referral to External Agencies	105
5. Assault on or Abuse of Residents	107
Operational Guideline 8: Access to Premises.....	109
1. Introduction.....	109
2. Powers of Authorised Officers	109
3. Health Service Providers and Others	110
Operational Guideline 9: Licensing of Facilities	112

1. Legislation	112
2. Qualities of applicants	113
3. Visits and Inspections.....	115
Operational Guideline 10: Awards	118
1. Relevant Awards.....	118
Useful Contacts	119

Preface

Guidelines are published under S17(3) of the *Supported Residential Facilities Act 1992*

- (a) to assist licensing authorities in the performance of their functions and to encourage consistency in the exercise of powers and the administration of this Act; and
- (b) to assist proprietors of supported residential facilities to fulfil their obligations under this Act; and
- (c) to assist residents of supported residential facilities to understand their rights and responsibilities.

Supported residential facilities continue to provide accommodation for one of South Australia's most vulnerable population groups. The residents have either a disability or a mental health illness. These Guidelines are intended to ensure that standards continue to improve for these people.

The Supported Residential Facilities Regulations that came into force in 2009 have introduced new standards to reflect community expectations for this style of accommodation for an increasingly vulnerable population.

It is recognised that no document of this nature is ever perfect or even satisfactory to all parties and also that social conditions and needs are constantly changing. It is hoped that it is used as it is intended and provides a useful tool to the benefit of residents, proprietors, local government, families, carers, and all other people involved in this sector.



A/Presiding Member

Supported Residential Facilities Advisory Committee

Introduction

1. Purpose of the Guidelines

Section 17(3) of the *Supported Residential Facilities Act 1992* (the Act) allows the Advisory Committee to prepare and publish guidelines to assist the following groups:

- (a) licensing authorities, in the performance of their functions and to encourage consistency in the exercise of powers and the administration of the Act
- (b) proprietors of supported residential facilities, to fulfil their responsibilities under the Act
- (c) residents of supported residential facilities, to understand their rights and responsibilities.

The Advisory Committee is committed to the provision of appropriate standards of care that are practical, enforceable, clear and equitable. The Advisory Committee is aware that consumers, service providers and licensing authorities have rights under the legislation and believes that, in practice, the achievement of high quality care depends on a cooperative approach or a sense of partnership between all stakeholders.

In these guidelines the terms 'must' and 'will' are used as imperatives and are fully prescriptive. 'Should' is used to convey an expectation or desirability, but with no prescriptive force, however.

The legislation refers to a resident's 'representative' and this terminology is followed in these guidelines. 'Representative' includes 'advocate' where a person has been appointed or acts on behalf of an individual resident or a group of residents.

2. Objects of the Act

- 2.1 According to the interpretations of the Act, a 'supported residential facility' (or 'facility') means premises at which, for monetary or other consideration (whether or not for profit), residential accommodation is provided or offered,

together with personal care services, for more than two people (other than for members of the immediate family of the proprietor of the facility).

'Residential-only' premises are boarding or lodging houses or other premises that do not offer personal care services. They are not required to be licensed under the Act.

- 2.2 Section 4 of the Act discusses its application, establishes some exemptions, and defines the Minister's powers of exemption.
- 2.3 Section 6 of the Act sets out the Objects of the Act.
- 2.4 The first object is to set standards for the provision of personal care services. Personal care services are comprehensively defined in the Interpretations section of the Act. They are primarily the provision of medication management, showering/bathing and financial management. Any one of these services provided to more than two people comprises a Supported Residential Facility.
- 2.5 Another object is to ensure that residents and prospective residents have access to information about the care services provided by a facility, and the associated costs. A number of specific guidelines are concerned with this important area, including the Prospectus and the Resident Contract and Service Plan. The proper provision of information and the appropriate assessment and admission procedures will prevent subsequent difficulties and disagreements.

The remaining objects are to regulate the responsibilities of service providers and to ensure that there is accountability in the field through regulation and licensing.

3. Principles of the Legislation

- 3.1 Section 7 of the Act sets out the principles that must be applied in relation to the management and administration of supported residential facilities. Along with the objects in Section 6, the principles should be referred to when considering and implementing the other specific legal requirements. They

help to convey the Act's intention, the spirit in which it has been framed, and its main concerns.

- 3.2 Section 7, principle (a) has three parts. It states that residents have a right to *'high quality care and to an informed choice in the provision of appropriate care'*. While 'high quality care' is a subjective measure, it should be interpreted as meaning in relation to those standards that are currently provided in the general community and in similar residential institutions. These standards will change over time as a result of general social change and of improvements in the supported residential sector because of regulation and licensing and government funded programs.

- 3.3 The resident must be able to exercise choice through information provided in a facility's prospectus. This may be supplemented by visits and other admission processes that particular facilities may establish.

Freedom of choice is also encouraged by residents being able to bring personal possessions with them, including furniture, wherever possible, and through having a service plan that sets out the individual care that the person is purchasing.

Freedom of choice is further enhanced by other principles, such as the right to make a complaint and the existence of a disputes procedure. This procedure and the right to have a representative or advocate demonstrate that a resident does not have to accept without question everything that happens to them, but can request change on reasonable grounds and in a reasonable manner.

Although not contained in the legislation, it is beneficial whenever possible for residents to participate in aspects of a facility's operations, such as planning activities, resident routines and house rules. This can be achieved through resident committees. People are generally more cooperative, happier and healthier when they can actively contribute to a goal or objective rather than merely being passive recipients of services. It is **not** appropriate, however, to have residents doing work that should be done by staff.

The third component of Section 7, principle (a) is the *entitlement of residents to their choice of medical practitioner or other provider of health services*. This is a right exercised by people in the general community, and being a resident therefore should not suffer discrimination in this regard.

The resident should be able to make an informed choice on the nature and degree of the health care they receive, just as they would in the community, and not have this decided by others. There will be some exceptions, however, which will require careful consideration. A medical condition that poses a threat to that person or to others may require intervention even though the person does not wish it.

The issue then becomes how the service is provided, with the least infringement of individual rights and in accordance with the requirements of the *Guardianship and Administration Act 1993*.

- 3.4 This principle (S7a) raises some important related issues. It is desirable to make living in a supported residential facility as normal as possible. To support reasonable levels of privacy, dignity and independence, residents should be encouraged and supported to access general community facilities for medical and other health services.

In addition to upholding the rights and the independence of residents, the proprietor or manager of a facility also has responsibilities that require access to information about residents' health and aspects of their social circumstances. This means keeping accurate, up-to-date and reasonably comprehensive records. Records must be kept in locked storage with restricted access and be treated with professional confidentiality, as covered in Regulation 7 Visitors books and other records.

- 3.5 Section 7, Principles (b) and (c) of the Act state that residents, having regard to their needs and the type of service offered at the facility, are '*entitled to receive reasonable levels of nutrition, comfort and shelter in a home-like environment; and that services should be provided in a safe physical environment*'. With regard to the latter, there are building codes and fire regulations that will be enforced by the licensing authority. In addition, the
-

Regulations set out some minimum requirements for bedrooms, bathrooms, access and egress (exit route/s), storage, fire safety, etc.

Similarly, the Regulations contain minimum standards on nutrition, which are expanded on in these guidelines.

3.6 Section 7 principle (d) states that residents are '*entitled to be treated with dignity and respect and afforded reasonable degrees of privacy*'. Regulation 8 stipulates some standards that must be observed to ensure that residents are provided with privacy, dignity and respect. Again, they are expanded on in the guidelines dealing with standards of care.

3.7 Principle (e) refers to a resident's entitlement to independence and freedom of choice, including:

- (i) the right to choose and pursue friendships with members of either sex
- (ii) the right to practise religion and cultural customs, and
- (iii) the right to participate in activities of their choosing (as long as they do not infringe unreasonably on the rights of others).

This principle relates to friendships and sexual relationships between members of either sex. Proprietors and managers need to be explicit about what they consider to be acceptable behaviour in the context of the rights of the individual and the rights of others (such as in shared rooms).

Proprietors/managers should support and inform their policies and practice by accessing appropriate information regarding strategies for supporting healthy relationships (including safe sexual practices and accessible information regarding contraception) along with information in relation to State and Commonwealth anti-discrimination legislation.

SHine SA is a service which staff and residents can access for information and resources on sexual health and relationships. Information about SHine services can be found at: www.SHinesa.org.au For further information about anti-discrimination legislation and information services go to Equal Opportunity Commission (SA) site at www.eoc.sa.gov.au or the Human Rights and Equal Opportunity Commission site at www.hreoc.gov.au

3.8 Principle (f) states that residents are entitled to manage their own affairs wherever possible, and must not be subjected to exploitation of their financial or other assets.

Regulation 15 sets out a number of standards on the management of a resident's personal finances. This area is also covered in a specific guideline. Generally, if a person has been assessed as incapable of managing their own affairs, the matter should be referred to their representative and/or the Office of the Public Advocate which will make appropriate financial management arrangements and safeguard the interests of all parties.

3.9 The final principle in Section 7, principle (g) refers to a resident's right to freedom of speech. This means that residents have the right to comment (either publicly or confidentially) to whomever they choose about the accommodation or personal care services they are receiving at the facility. Residents of supported residential facilities are often afraid to complain for fear of repercussions.

The right to complain to a medical practitioner or other health worker, a staff member, relative, friend or representative is contained in the Act. It is also supported by other provisions that refer to the legitimacy of representatives, the delegation of residents' rights, the role and responsibilities of authorised officers and the rights of health service providers, social workers and other authorised persons.

4. Conclusion

4.1 The guidelines are related specifically to the legislation, to the attainment of optimum standards of care, and to the rights and responsibilities of proprietors/managers, licensing authorities and residents. In practice, developing and maintaining standards depends on the quality, training and commitment of the proprietor and staff of a supported residential facility.

4.2 The purpose of the guidelines is to provide the industry, service providers, authorised officers, residents and interested others with an interpretation of the spirit and intent of the Act and Regulations and with the expectations of the Supported Residential Facilities Advisory Committee.

Operational Guideline 1: The Prospectus for a Facility

1. Introduction

- 1.1 The prospectus for a supported residential facility must provide detailed and reliable information about the facility and its services to prospective residents, their relatives and representatives, service providers, and the licensing authority.
- 1.2 The Act requires the proprietor of a facility to prepare a prospectus. Copies are to be displayed on the premises and made available to prospective residents and/or their representatives.
- 1.3 A copy of the prospectus, and any alteration to it, must be lodged with the licensing authority within fourteen days of its coming into effect. A draft prospectus must be submitted prior to an application for a licence being considered. Any proposed alteration must be submitted for approval prior to its implementation.

The proprietor must state, in writing, when the prospectus or alteration will come into effect, and the details of consultations held with residents in its preparation. The licensing authority can assist in the preparation of a prospectus.

- 1.4 The information in the prospectus must be accurate and sufficiently comprehensive for a prospective resident and/or their representative to make an informed judgement about whether or not to live at the facility.

2. Contents of the Prospectus

As the prospectus represents the primary advertising medium for the facility, it is up to the proprietor to decide on the extent of its content and format. However, the prospectus must contain the following information.

2.1 General

The aims and objectives of the proprietor must be stated, including the nature and number of residents catered for, the degree of care offered, the extent to

which disability, infirmity and illness can be accommodated, and any restrictions relating to age, sex, etc.

2.2 Accommodation

The prospectus must provide accurate details of the accommodation available individually to prospective residents, details about the bedroom (and if it is shared), together with a description of the communal facilities, both indoors and outdoors.

2.3 Services provided

A description of the services provided or offered at the facility must clearly indicate those that are permanently available, those that are available on request, and those that may be available from time to time.

If the services offered include the management of a resident's personal finances, details must be given of the various options available for the management of money held on the resident's behalf, the kind of records and accounts kept, and the arrangements observed for providing information to a resident whose finances are managed by the facility.

Arrangements for the safe keeping of a resident's possessions of value should also be stated. It is reasonable for a proprietor to inform prospective residents of their own responsibility for valuables, irrespective of any safe keeping facilities provided, and of the advisability, therefore, of residents making adequate insurance arrangements for them.

A facility that provides nursing care services as part of a resident's Service Plan must clearly state that it is not a nursing home unless approved as such.

2.4 Staffing

The prospectus should indicate the number of staff available to provide care to the residents, and the services that they may be expected to provide. Reference may be made to the training, qualifications and experience of staff, but if any reference is made to nursing qualifications, there must be an equally prominent statement about whether the facility is, or is not, licensed as a nursing home.

2.5 Terms and conditions

As some of the following matters are more liable to change than other sections of the prospectus, they can be included as an insert. However, the licensing authority may require each change to the insert to be approved before it is implemented, as it is with the prospectus itself. This section must include the following.

- 2.5.1 Any amount payable on becoming a resident **and** how a resident who makes a financial contribution to the facility can obtain information on the financial management of the facility.
- 2.5.2 Comprehensive and up-to-date details of recurrent fees and charges, the services they cover, the time and method of payment and whether payment is in advance or arrears. If payment is in advance, a clear statement should be included regarding the consequences of a change of circumstances.
- 2.5.3 Where an amount, fee or a charge is not a fixed sum, the prospectus must state its nature, purpose and method of calculation.
- 2.5.4 Any provision for the variation of an amount, fee or charge must be explained.

Supported residential facilities that have a contract with the State Government for the payment of a subsidy to residents must charge according to the terms of that contract.

When considering fee increases, proprietors/managers should take into account the amount of disposable income that residents will retain for living requirements such as:

- pharmaceutical goods
- aids and appliances
- transport
- leisure activities and entertainment.

The amount and timing of increases should also be considered in the light of current rates of inflation and government pension levels, as well as market requirements.

- 2.5.5 Details of the financial arrangements for retaining places (for any purpose) at the facility, and the conditions under which a resident can vacate the accommodation temporarily, e.g. reduction of fees by 30% after 14 days vacancy for hospital or other purpose.
- 2.5.6 Any amount payable to, or by, a resident when they cease to reside at the facility.
- 2.5.7 The personal items that the resident will be expected to provide for themselves and the extent to which the resident's personal possessions can be accommodated.
- 2.5.8 Details of the insurance(s) provided by the facility and those that the resident will/may need to arrange if required.
- 2.5.9 The procedures for either party for terminating the resident contract, or giving notice of changes to it and/or the service plan component.
- 2.5.10 Procedures for making complaints to the management and information about how to contact the licensing authority in the case of unresolved disputes, or for other purposes.
- 2.5.11 The circumstances in which a resident might be provided with a 28-day notice to leave the facility.
- 2.5.12 Procedures on the death, or unexplained absence of a resident, especially mentioning that death of a resident will be reported to the coroner.
- 2.5.13 Details of any other rules or policies that apply to residents.
- 2.5.14 Details of any other rights and responsibilities of residents.
- 2.5.15 Details of the licensing authority, together with a statement to the effect that the facility is licensed, and that the authority is responsible for ensuring that standards of accommodation and services are maintained.

- 2.5.16 It is essential that residents are fully informed about their rights, and specifically those contained in the legislation. As one means of assisting this process, the principles (Part 2, 7) of the legislation should be printed in a facility's prospectus. The prospectus should also state that a copy of these guidelines is made available to a resident or their representative on request.
- 2.5.17 The prospectus included reference to reportable deaths. Under the Coroners Act 2003, any death of a SRF resident must be reported to the Coroner.

Prospectus (Sample)

TITLE PAGE

(Include: Name of Facility, Address and Phone Details)

PROSPECTUS

(Date: Month and Year)

CONTENTS

1. GENERAL

- (1) Aim/Objectives
- (2) Nature and number of residents
- (3) Degree of care offered
- (4) Restrictions

2. ACCOMMODATION

- (1) Type of accommodation (single bedrooms, share, ensembles, air conditioning etc)
- (2) Communal facilities (lounge, dining, outside etc)

3. SERVICES

- (1) Available permanently
- (2) Available on request
- (3) Available periodically
- (4) Management of residents' finances
- (5) Arrangements for the safe keeping of residents' valuables
- (6) Medication management

4. STAFFING

- (1) Number
 - (2) Services provided
-

5. TERMS AND CONDITIONS

- (1) Amount payable upon residency (e.g. bond, rent in advance)
- (2) Recurrent fees and charges
- (3) Non-fixed fees and charges
- (4) Variation of fees and charges
- (5) Retaining places at facility
- (6) Temporary vacation of residency
- (7) Cessation of residency
- (8) Provision for personal items
- (9) Insurances
 - a) Provided by facility
 - b) Provided by resident
- (10) Termination or change of contract
- (11) Complaints procedure
- (12) Circumstances under which a resident might be asked to leave
- (13) Death or unexplained absence
- (14) Rules/Policies
- (15) Rights/Responsibilities
- (16) Guidelines for the Operation of the Act

1. GENERAL

(1) Aim/Objective

The aims and objectives of the proprietor must be stated.

For example:

The aim of _____ (facility's name) _____ is to provide residents with a safe and homelike environment, to provide them with facilities to maintain a satisfactory level of living standards and to promote quality of life and ensure a high degree of care.

(2) Nature and number of residents cared for.

For example:

The facility caters for mainly people with a mental health illness and is licensed to care for a maximum of _____ (number) _____ of residents at any one time.

(3) Degree of care offered.

For example:

Assistance with personal hygiene and self care is offered; however, those persons suffering uncontrollable incontinence cannot be accommodated.

(4) Restrictions

Any restrictions relating to age, sex etc. must be stated.

If there are no restrictions applicable to the facility, then omit this section.

2. ACCOMMODATION

Details of the accommodation available individually to prospective residents, together with a description of the communal facilities, indoors and outdoors, must be provided.

For example:

(1) *The facility offers the following accommodation:*

- *sole occupancy with ensuite bathroom*
- *twin share with ensuite bathroom*
- *twin share using communal bathroom and toilet*

(2) *Communal facilities available for resident use are:*

- *dining room*
 - *lounge*
 - *TV room*
 - *outside courtyard and garden.*
-

3. SERVICES

A description of the services provided or offered at the facility must be included, indicating those that are permanently available, those that are available on request, and those that may be available from time to time.

A facility that provides nursing care services must clearly state that it is not a nursing home unless licensed as such by the licensing authority.

(1) Services Permanently Available

For example:

Assistance with residents' personal care is provided by personal care workers who are on duty 24 hours per day. The facility is able to provide the following services if/when required by residents:

- *assistance with bathing/showering*
- *assistance with medication management*
- *assistance with toileting*
- *assistance with oral care*
- *assistance with mobility, etc.*

(2) Services Available on Request

For example:

Laundering of clothing is available upon request by the resident.

or :

Staff are able to arrange the following services for the resident on request:

- *nursing care*
- *dentistry*
- *physiotherapy, etc.*

(3) Services Available Periodically

For example:

The following services are available periodically:

- *hairdressing - there is a visiting hairdresser each Friday*
- *podiatry - there is a visiting podiatrist every month, etc.*

(4) Management of a Resident's Personal Finances

If services offered include management of a resident's personal finances, details must be given of the options available, the kinds of records and accounts kept, and the arrangements for providing regular information to a resident whose finances are managed by the facility.

For example:

If full financial management is required by residents, they are encouraged to seek the assistance of relatives and/or the Office of the Public Advocate.

Assistance from staff to seek these services is available on request.

The facility is able to offer assistance for residents in managing small amounts of money. Any amounts received on behalf of a resident are kept in a special account. Written records, including signed authorisation by residents, will be kept of all transactions made. Written accounts detailing all transactions will be provided to residents at the end of each month. In addition, residents may access information regarding their personal finances at any reasonable time by making a request to management.

(5) Arrangements for Safe Keeping of a Resident's Possessions of Value

For example:

The facility provides a safe on the premises for residents to store cash and valuables. Residents will be provided with a written receipt for cash and other items stored. It is suggested that only small amounts of cash be held on the facility and that residents make other arrangements for holding larger sums.

All residents have their own lockable storage cabinets in their bedrooms for storage of other personal possessions.

Although these safe keeping facilities are available, management accepts no legal liability for a resident's valuables and residents are urged to make appropriate insurance arrangements.

4. STAFFING

(1) & (2) The number of staff available to provide care to the residents and the services that they may be expected to provide should be indicated.

For example:

There are two primary caregivers on duty between the hours of 8 am and 10 pm, 7 days per week. One primary caregiver is on duty overnight from 10 pm to 8 am, 7 days per week. It is the primary caregiver's role to provide the various care services the residents may require, such as assistance with showering etc. For details of services provided, see Section 3 (1).

In addition, the manager of the facility is present at the premises during usual business hours Monday to Friday.

Reference may be made to the training, qualifications and experience of staff. If reference is made to nursing qualifications, however, there must be a clarifying statement about whether the facility is, or is not, licensed as a nursing home.

5. TERMS AND CONDITIONS

Some of the following are more liable to change than other sections of the prospectus; therefore it is **suggested that some be included as an insert or appendix** to enable the document to remain current.

(1) Amount Payable upon Residency

State any amount payable on becoming a resident, and the procedures by which a resident who makes a financial contribution to the facility in this way can obtain information on the financial management of the facility.

For example:

The initial entry contribution for this facility is _____ (amount) _____.

Details of the financial management of the facility are available to eligible residents upon written receipt by management of such a request, outlining the information required.

If a facility does not require an entry fee/contribution, it is suggested that a statement to that effect is included.

For example:

There is no entry fee/contribution required for this facility.

(2) Recurrent Fees and Charges

Give details of recurrent fees and charges, the services covered by these, the time and method of payment, and whether payment is in advance or arrears. If payment is in advance, a clear statement should be included of any consequences of a change of circumstances.

For example:

Fees for accommodation and care are \$_____ (amount)_____ per week.

Services provided for this fee are detailed in Section 3 (1).

Payment is required on a fortnightly basis in advance. Payment is required by the second Friday of each fortnight. Residents are free to discuss other payment arrangements with management should this not be suitable.

Payment may be made by direct debit, cash, cheque or money order.

Should a resident experience a change of circumstance, this must be discussed with management and appropriate arrangements made.

There are no other recurrent fees.

(3) Non-fixed Fees and Charges

Details of the nature and purpose of any amount, fee or charge of a non-fixed sum, and the method of calculation must be stated.

(4) Variation of Fees and Charges

Any provision for the variation of an amount, fee or charge must be stated.

For example:

Management will review fees and charges on a six-monthly basis, at the beginning and middle of each calendar year. Fees and charges may also be reviewed due to a change in a resident's personal circumstances.

(5) Retaining Places at Facility

Details of the financial arrangements for retaining places, for any purpose, at the facility must be stated.

For example:

Residents may temporarily vacate their rooms for any purpose. It is preferred that 48 hours notice of intention to do so is made to management; however, medical circumstances may prevent this. For the first 14 days the usual occupancy fee is payable. After an absence of 14 days fees are reduced by 30% of the resident's usual occupancy fee. Beds cannot be kept indefinitely and residents should notify management of any changes of circumstances once they are known.

(6) Temporary Vacation of Residency

Conditions under which a resident can vacate the accommodation temporarily must be detailed.

For example:

Residents are able to vacate their residence on a temporary basis for reasons such as hospitalisation or holidays. It is requested that management be advised promptly of any intentions and period of likely absence.

It should be clear that the resident's fees will be reduced by 30% after two weeks absence.

(7) Cessation of Residency

Details concerning any amount payable to or by a resident when the resident ceases to reside at the facility must be provided.

For example:

A period of 14 days notice to management or in lieu of this, 14 days rent, is required when ceasing residence at the facility. On completion of the 14 days

and with payment of the usual fees to cessation date, no other fees shall be payable by the resident.

(8) Provision of Personal Items

The personal items that a resident is expected to provide for themselves, and the extent to which a resident's personal possessions can be accommodated at the facility must be stated.

For example:

Management encourages residents to bring with them smaller personal possession such as photographs, etc. The facility is also able to accommodate small pieces of a resident's own furniture. If a resident wishes to have larger pieces of their own furniture, this will need to be discussed with the facility's management.

(9) Insurances

a) Details of insurances provided by the facility must be stated.

For example:

The facility provides the following insurance cover:

- *building insurance*
- *contents insurance*
- *public liability (to a limited amount).*

b) Details of insurances required by residents themselves should also be stated.

For example:

It is suggested that residents personally arrange contents insurance to cover any personal items of value they may have at the facility, even when these are placed in the facility's safe keeping.

(10) Termination or Change of Contract

The procedures on either side for terminating the resident's contract, or giving notice of changes to it, must be detailed.

For example:

Any possible termination of a resident's contract by a proprietor shall be discussed with the resident and any other relevant parties. Should the decision to terminate a contract be made, the resident and their representative will be given written notice at least 28 days prior to the termination date where appropriate. The written notice will outline the grounds for termination of the contract.

Residents are able to make application for review of any decisions made by the proprietor.

Residents may terminate a contract at any time provided that 14 days notice of termination in writing is provided to the proprietor.

It may be wise to include information that explains clearly that if a resident assaults staff or other residents, or commits a crime in the facility, residency may be terminated immediately with the licensing authority's approval. This may occur when police are involved and the safety of staff and residents is at risk.

(11) Complaints Procedure

Procedures for making complaints to the management, and information on how to contact the licensing authority in the case of unresolved disputes, or for other purposes, must be stated.

For example:

In the event of a complaint or dispute, residents should, if appropriate, discuss the matter with the staff member on hand. Staff will attempt to resolve matters in a prompt and reasonable manner and will record the complaint, the action taken and the outcome.

If the matter is not resolved in the first instance, the complaint or dispute should be brought to the attention of the manager. It is the manager's responsibility to address all matters in a prompt and reasonable manner and on a confidential basis. Residents are encouraged to involve an 'independent person' to assist or represent them in the resolution process should this be

needed. The manager can arrange this representation for the resident if necessary.

The resolution process may then involve a meeting with all relevant parties to discuss the issue(s) of concern. An independent mediator will be involved should it be required.

All disputes, a summary of their proceedings and the outcome are recorded by the facility and signed by those involved.

*Matters of an urgent nature, such as those that may affect the health, safety or welfare of a resident, e.g. physical safety, sexual or emotional abuse, will be investigated within 24 hours. Police **will** be involved where necessary. The licensing authority may assist where a matter has been reported to the police.*

Matters of a less urgent nature, such as those that do not affect the health, safety or welfare of the resident, will be investigated within 72 hours.

In the situation where it has not been possible to resolve a dispute adequately by the preceding process, or where internal resolution is not appropriate, an application to the Licensing Authority may be made requesting further intervention. All applications to the Licensing Authority must be made in writing. The Licensing Authority for this facility is:

The District Council of _____

(address and phone contact details).

(12) Circumstances in which a Resident Might be Asked to Leave

The circumstances under which a resident might be asked to leave a facility need to be stated.

For example:

Circumstances under which a resident might be asked to leave the facility include non-payment of fees, consistent disregard for facility rules and regulations, or an inability to integrate into the life of the facility. A request to leave the facility will only be made after consultation with the resident and their relatives/representatives and medical team if appropriate.

Another example:

If a resident's physical or mental health deteriorates to a degree that poses a danger to themselves and/or other residents or staff, a resident may be required to leave the facility.

(13) Death or Unexplained Absence

Procedures on the death or unexplained absence of a resident should be stated.

For example, with regard to death:

Should a resident die while at the facility, the following procedures will be undertaken as required by either staff or management:

- *report to the Coroner under the Coroners Act 2003*
- *contact resident's private physician/locum doctor*
- *inform police*
- *inform next of kin/relatives/representatives*
- *inform Public Trustee where necessary*
- *contact funeral directors as required.*

For example, in regard to an unexplained absence:

If a resident is absent without notice, action taken by staff will normally include informing relatives, representatives, friends and/or police.

(14) Rules/Policies

Details of any other rules and policies that apply to residents should be included.

For example:

Rules and policies pertaining to the facility are kept to a minimum on the understanding that all residents will respect each other's entitlement to privacy and personal space.

(15) Rights/Responsibilities

Details of any other rights and responsibilities of residents should be included.

For example:

Residents' rights include:

- *to be treated as individuals with dignity and respect*
- *to be afforded the optimum degree of privacy*
- *to obtain assistance from outside the facility as required (and so on).*

Residents' responsibilities include:

- *treating property and furnishings with care*
- *treating staff and other residents with courtesy and respect for their rights and privacy*
- *observing all reasonable rules and policies*
- *informing staff if certain meals are not required*
- *informing staff of any intention to be absent overnight (and so on.).*

(16) Guidelines for the Operation of the Act

Reference should be made to the Supported Residential Facilities Advisory Committee's Guidelines and Standards (Third Edition, 2011).

For example:

The Advisory Committee has produced guidelines in accordance with Section 17. (3) (a) (b) and (c) of the Act. A copy of these guidelines may be borrowed by a resident or their representative on request to the manager.

_____ (name of facility) _____ is a licensed facility under *The Supported Residential Facilities Act, 1992.*

The Licensing Authority of this facility is:

District Council of _____

Address: _____

Phone number: _____

Fax number: _____

The Licensing Authority is responsible for ensuring the standards of accommodation and services are maintained.

Signed: _____

Name of Proprietor: _____

Date: _____

Operational Guideline 2: Resident Contracts and Service Plans and Schedule 3 Statements

1. Introduction

- 1.1 The Resident Contract and Service Plan is an agreement between a proprietor and a resident about the services and accommodation the resident is purchasing. In particular, it details the provision of personal care services, the costs, the terms and conditions of residency, and other relevant matters. Only residents who will be receiving personal care services need the service plan component of the contract. It is unlikely, however, for a resident not to have their medication managed by the facility.
- 1.2 A Resident Contract and Service Plan must be in writing and must be entered into within **seven days** of the resident receiving personal care services.
- 1.3 Before entering into a Resident Contract and Service Plan, the proprietor must ensure that the resident is given a copy of the Schedule 3 Statement and a copy of any rules and policies relevant to the facility. The proprietor is responsible for ensuring the correctness of all information contained in the Schedule 3 statement.

A Schedule 3 statement is a mandatory requirement of the Regulations. It is a disclosure that provides enough detail for a resident to understand clearly the nature of the accommodation and services being offered by the facility, and to understand the costs and fees payable.

Note:

Schedule 3 refers to a 'layout' of accommodation and a 'plan'. Copies of both must be attached to the Schedule. The distinction is as follows:

A 'layout' is a drawing of the specific accommodation and room(s) being made available to the resident. This should include identification of all fixtures in the room or rooms, e.g. window(s), door(s), in-built storage.

A 'plan' is a drawing, with appropriate labelling (e.g. lounge, bedrooms, dining room) of the entire facility. The location of the particular resident's accommodation must be marked on this plan.

- 1.4 The resident must receive a copy of the Resident Contract and Service Plan at the time of becoming party to the contract. A fully signed copy of the contract must be kept in a safe place at the facility at all times. The resident and/or their representative must have reasonable access to the copy of the Resident Contract held at the facility.

'Reasonable access' means private and separate viewing at a time that is convenient for the proprietor/manager and for a resident and/or their representative.

- 1.5 The language of a Resident Contract and Service Plan should be clear and uncomplicated, and the print (font) size no smaller than 12 point. If a resident is unable to read or understand the contents of the contract, it should be carefully explained to the person and/or their representative. If the resident's understanding of English is limited, an interpreter service should be offered.

- 1.6 Proprietors have a responsibility to ensure that every resident understands the terms and conditions of their contract, working through the resident's representative, if necessary.

Contracts are required by law. It is not a defence for non-compliance to claim that a resident does not or could not understand the contents of a contract.

- 1.7 It is only permissible for contracts to be signed on behalf of a resident by a properly appointed representative.

- 1.8 A sample Resident Contract and Service Plan is provided in this guideline. Copies of a facility's pro-forma contract or any substantial changes to an existing pro-forma should be submitted to the licensing authority, in the same manner as a sample prospectus.

- 1.9 Any subsequent changes to a Resident Contract and Service Plan of a substantial nature (e.g. change of room or change in provision of services requiring a variation in fees) should be documented, endorsed by the
-

proprietor and the resident or their representative and attached as an addendum to the original contract.

- 1.10 The Minister has exempted retirement villages and the proprietors of retirement villages from Sections 38 and 39 of the Act dealing with contracts and the rescission of contracts.

2. Contents of the Resident Contract and Service Agreement

2.1 Contract

The Resident Contract and Service Plan must contain the following information.

- 2.1.1 The name and address of the facility.
- 2.1.2 The date the contract came into effect.
- 2.1.3 The signature, date of signing, name and address of all parties to the contract, including the resident and/or their representative and the proprietor and/or manager of the facility.
- 2.1.4 Endorsement of the resident and/or their representative to the effect that:
- any written alteration to the contract by the proprietor has been made with the consent and knowledge of the resident and/or their representative
 - a copy of the prescribed documents (Schedule 3 statement, service plan, prospectus, facility rules and policies) have been received by the resident and/or their representative
 - the resident and/or their representative understand the nature and effect of the contract and the rights and responsibilities of the resident
 - any inconsistency between the terms and conditions of the contract and the prospectus for the facility has been acknowledged and understood by the resident and/or their representative
 - any variation to the prospectus of the facility has been acknowledged and understood by the resident and/or their representative
-

- the resident and/or their representative has received a copy of the contract.

2.1.5 The Resident Contract and Service Plan must contain information about how a resident and/or their representative can register a complaint about any aspect of the services provided or offered by the facility and the procedures for dispute resolution available at the facility.

2.2 Accommodation

The Resident Contract and Service Plan must contain the following information.

- 2.2.1 Details of the accommodation reserved for the resident, e.g. single room with ensuite bathroom, share room.
- 2.2.2 Details of the facilities available to the resident.
- 2.2.3 Details of the fees and charges for the room, including payment details.
- 2.2.4 Details about bed-holding fees, including:
 - the period of absence required before a reduction in fees applies (which must not exceed 14 days)
 - the extent of the fee reduction (30%) that applies after the specified period of absence.

2.3 Service Plan

The purpose of the service plan part of the Resident Contract and Service Plan is to ensure that facilities recognise and respond to the needs and potential of individual residents, whatever their age and circumstances and whatever the nature or degree of any health problem or disability they may have.

It should demonstrate that the range of a resident's needs have been assessed, are being met, and that a resident or their representative knows what services are being provided and the associated costs.

- 2.3.1 A service plan is a personal and social history of a resident, containing personal details, significant information about the person's previous
-

experience, their current need for services, their potential requirements and their expectations. It must be comprehensive, up-to-date and accurate.

- 2.3.2 The aim of a plan is to ensure that a resident's best interests are promoted, with proper regard to the interests of others. It provides a record for staff and visiting health service providers to ensure that there is continuity, consistency and coordination in the provision of services, with no significant gaps or duplication that can be avoided.
- 2.3.3 Under Regulation 6 to SRF Regulations 2009, the Resident Contract and Service Plan can be one document.
- 2.3.4 The Regulations require a service plan to include the following information:
- (a) exact details of the personal care services the resident is purchasing (including their nature, extent and frequency)
 - (b) instructions to staff regarding the provision of services
 - (c) the name, address and telephone numbers of the resident's medical practitioner
 - (d) current information on the resident's general state of health, and any instructions or information relating to the health or care of the resident given to a staff member by the resident's medical practitioner or other health service provider who is directly involved in the care of the resident
 - (e) other information specifically required to be included in the service plan under another Regulation.
- 2.3.5 Under Section 40 of the Act, proprietors of supported residential facilities must ensure that a service plan is prepared and implemented for each resident to whom personal care services are provided. This must be undertaken in consultation with the resident or the resident's representative (as must the reviews and revisions of plans according to the Regulations).
- 2.3.6 The plan must set out the services that are to be provided to the resident on a day-to-day or other periodical basis. The Act further stipulates that the plan must be reviewed and, if necessary, revised as often as appropriate given the kinds of services provided and the resident's needs and circumstances. The
-

Regulations specify that review and revision must occur if the resident experiences or suffers a significant occurrence or deterioration that adversely affects their health or wellbeing. Otherwise, there must be at least one review every 12 months.

2.3.7 Regulation 7 states that the following records must be maintained in an appropriate manner, whether as part of a service plan or otherwise. In other words, the keeping of these records is mandatory but it is the facility's choice as to whether they are part of the service plan or separate. In most instances, it would seem appropriate and efficient that there is one comprehensive record, known as the Service Plan. The records requiring maintenance of the plan under Regulation 21 are as follows:

- (a) the resident's full name, age, gender, and date of admission, and the name and address of their next of kin and of a representative
- (b) medical records, results, directions or instructions provided by a medical practitioner or other health service provider, and details of a visit or examination undertaken at the facility by a medical practitioner or other health service provider
- (c) details of a special procedure or precaution that must be taken to protect the resident's personal safety and the safety of others
- (d) details of a direction or instruction given by the resident to the proprietor, or to a staff member of the facility
- (e) the date on which the resident is discharged from, or leaves, the facility, or the date of their death.

2.3.8 Regulation 6, dealing with Resident Contracts and Service Plans, requires that the plan is kept in a secure place that assures confidentiality and that the proprietor makes it available on request to a resident or their representative, or to a medical practitioner or other health service provider, at any reasonable time.

2.3.9 Regulation 7, dealing with records in general, again requires they be stored securely and made available as above. This Regulation also stipulates the

records must be retained by the proprietor for at least five years after a resident leaves the facility or after their death at the facility.

- 2.3.10 The proprietor/manager is also responsible for ensuring that relevant details of a resident's medical or other special needs are given to the appropriate person when a resident leaves a facility on a temporary basis (e.g. for a holiday with a relative or other carer) and for passing on any supplies of medication or other aids with the necessary instructions.

3. Monitoring and Review of the Service Plan

- 3.1 There should be ongoing monitoring and assessment of the implementation of the Resident Contract and Service Plan and its impact on a resident, to ensure that it remains relevant and the best available.
- 3.2 Entries in a Resident Contract and Service Plan record should be clear, legible, concise and accurate. They should be dated and signed. There should be a clear distinction between facts and observed behaviour and any opinions or interpretation. Records should reflect the resident's views and attitudes and be directed towards their needs, care issues and overall wellbeing.
- 3.3 The Single Entry Point Assessment and referral information should be attached to the Resident Contract and Service Plan. Where information is duplicated, the single entry point information may be enough.

The Act stipulates an annual review as a minimum requirement. However facilities should be encouraged to hold reviews more frequently, preferably quarterly and at least every six months. Reviews should also be held following any significant changes in a resident's behaviour and health; critical incident, irrespective of its timing.

Any agencies involved with the resident should be invited to a meeting at the supported residential facility so that important information can be discussed and assessment and plans agreed on. The resident (and their representative) should attend the review and understand and agree with the outcomes, as far as their capacity reasonably allows. The proprietor/manager and staff

involved with the resident should also attend. The outcomes of this meeting must be recorded at the review and signed by all parties present.

4. Terms and Conditions

The Resident Contract and Service Plan should contain information regarding the terms and conditions applicable to the resident. It must include the following.

- 4.1 Any rules or policies that apply to the resident, particularly where they differ from those listed in the prospectus.
- 4.2 Information regarding payment arrangements for accommodation and services provided or offered to the resident, including the required method of payment, frequency and timing of payments, conditions under which payment arrangements may vary, and the steps that may be taken in the event of late or non-payment of fees.
- 4.3 Details of the time in which any refunds or other monies due to a resident will be paid (normally not to exceed seven days).
- 4.4 An indication that the resident and/or their representative acknowledge and understand the terms and conditions included in the contract.
- 4.5 Although not specifically covered in the Act or Regulations, consideration should be given to the needs of respite clients. Where respite care is arranged on an occasional and short-term basis only, no contract should be required. However, where the duration of the respite period exceeds seven days and/or where the respite occurs on a regular, planned basis, a Schedule 3 statement should be completed and a Resident Contract and Service Plan drawn up.

5. Rescission of Contract

The Resident Contract and Service Plan can be cancelled by a resident, by the proprietor, or by agreement between the resident and the proprietor. The contract should include an indication that the resident and/or their

representative acknowledge and understand the following terms for the rescission of a contract.

- 5.1 The resident can cancel the contract within 15 business days after the date of the contract or within 15 business days after receiving the prospectus, the Schedule 3 statement, the draft service plan and the rules and policies of the facility. Notice to rescind the contract must be in writing and given personally or by registered post to the proprietor/manager.
- 5.2 The proprietor may terminate the Resident Contract and Service Plan after giving the resident and/or their representative, personally or by post, written notice at least 28 days before the termination date, unless otherwise approved by the licensing authority. The proprietor **must** give grounds for the decision to terminate the contract and **must** set out the rights of the resident to apply for a review of the decision.
- 5.3 The parties to a Resident Contract and Service Plan may enter into a further agreement to discharge the contract by mutual agreement. This is encouraged in situations where the facility is unable to offer or provide personal care services that meet the changing needs or health status of a resident and it is therefore in the best interests of the resident to move.
- 5.4 A resident may terminate a contract at any other time provided that notice is provided to the proprietor, in accordance with the conditions set out in the facility's prospectus.

6. Contract Checklist

The resident understands and agrees to their rights and responsibilities and has been provided with the following information/details about their accommodation:

Schedule 3

- The services being purchased as specified in Schedule 3
- The fees and charges as specified in Schedule 3
- A bed-holding fee of a 30% reduction in their accommodation fee will be charged after an absence of 14 days
- Details regarding the cleaning of their room
- Details regarding the type of room (single/shared)
- Ability to rescind the contract within 15 business days after the date of the agreement
- The requirement that to rescind the contract must be in writing and given personally or by post it to the proprietor/manager
- The ability of the proprietor/manager to terminate the Resident Contract by advising the resident and/or their representative in writing either personally or by registered post at least 28 days before the proposed termination. It must include the grounds for the decision to terminate the contract and the avenues for the resident to seek a review of the decision
- Provided with access to the prospectus
- Provided with details (copies) of Rules and Policies, e.g. Smoking, fire-safety, being absent from the facility at meal-times or overnight
- Provided with an opportunity to discuss and confirm details regarding any special dietary requirements, e.g. allergies, cultural dietary requirements.

Note: The *Supported Residential Facilities Act 1992* does not restrict the ability of the parties to a Resident Contract to enter into a further agreement to discharge the contract by mutual agreement.

Supported Residential Facilities Regulations 2009 prescribe the mandatory contents of the Resident Contract and Service Plan.

A fully executed copy of this contract will be kept in a secure place at (address of residence) and will be available to the resident or their representative between office hours or at other times by negotiation.

7. Schedule 3 Information

Schedule 3 — Statement to be provided to a person before the execution of a Resident Contract

Supported Residential Facilities Act 1992 (Section 38)

You should seek independent legal advice if you are unsure about any aspect of:

- this document, or
- any document that you are required to sign or which is provided to you, in relation to your residency at a supported residential facility.

You have a period of 15 business days after:

- the date of any contract which you may sign, or
- the date of the supply of:
 - this statement, and
 - the rules and policies, and
 - your service plan,

(whichever is the later), in which you may withdraw from the contract.

You are advised to read and carefully consider all documents provided to you.

Schedule 3

The following information is provided to you in relation to the facility and services:

1. The facility

1.1 The facility is situated at:

.....

1.2 The name(s) and contact address(es) and telephone number(s) of the proprietor(s) of the facility is/are as follows:

.....

2. Your accommodation

2.1 The type of accommodation that is available to you is as follows:

Single or shared room.....

2.2 A layout of the accommodation is attached to this document.

2.3 The location of your accommodation within the facility is noted on the attached plan.

3. Services that may be provided to you

3.1 You will be provided with the following personal care services by the facility:

.....

3.2 The following services will also be available at the facility:

.....

3.3 The following equipment will be available to you at the facility:

.....

3.4 The following special (and additional) arrangements are being made for you, or on your behalf:

.....

3.5 The following restrictions may affect the provision of the above services:

.....

4. Your payments

4.1 You are required to pay the following amounts on the commencement of the resident contract (or on or before you commence to reside at the facility):

.....

4.2 Recurrent charges

The following fees and charges are payable while you remain a resident of the facility:

.....

This covers the following services/items:

.....

The fee or charge was last adjusted on:

..... when it was adjusted by:

.....

In respect of the last adjustment, residents were given days/weeks/months notice of the adjustment.

The estimated date of the next adjustment is:

.....

4.3 The following fees or charges (not mentioned above) may become payable in the future:

.....

4.4 You are entitled to the following amounts when you cease to be a resident of the facility:

.....

4.5 Before an amount is paid under 4.4, the following conditions must be met:

.....

5. Routines and times

5.1 The following routines apply at the facility:

.....

5.2 You will be expected to observe the following time requirements while you are a resident of the facility:

.....

6. Complaints

Should you wish to make a complaint about the accommodation or services provided at the facility, or about any other aspect of the facility, the following procedures should be observed:

.....

7. Your future position

7.1 Your contract must be terminated in writing. The contract requires you to take the following action to terminate the contract:

.....

7.2 It is proposed that the contract may require review or renegotiation in the following circumstances:

.....

8. Your future obligations

You may be required to observe certain rules and policies. Please ensure that you read a copy of any rules or policies before you agree to sign any documents.

Signed

Proprietor.....Date.....

Name of
Resident.....

Signed
Resident.....Date.....

Name of witness
.....

Signed
Witness.....Date.....

Resident Contract and Service Plan

Contract

Between

Facility Name:

Address:

.....

Proprietor:

and

Resident:

Representative:

Address:

.....

Date of Entry:

Date of signing contract:.....

Room (shared or single):

.....

Resident/Representative has received a copy of this Contract and the:

Schedule 3 **YES**

SRF Rules and Policies **YES**

Where there is a **SRF SEP**, please attach to this Contract, and where there is a duplication of information you may refer to the SEP

Name: Preferred title: M/F

Date of birth: Medicare No:.....

Date of arrival:..... Date of departure: Date of Death:.....

Pension No: Ambulance Cover:

Next of kin (include who to contact in event of significant trauma or death)

.....

Name: Telephone No: (H)..... (W).....

Address:

.....

Name: Telephone No: (H)..... (W)

Address:

.....

Name of representative (if different to next of kin):

.....

Telephone No:

Address:.....

Power of Attorney or Person

Responsible:.....

Enduring Power of Attorney:

(Medical).....

Doctor: Telephone No:

Address:

.....

Dentist: Telephone No:

Address:

Referring agency:

.....

Telephone No:

.....

Other agencies significantly involved:

.....

.....

Nationality and language(s) spoken:

.....

.....

Special religious and cultural needs/issues: Y/N

.....

Guardianship Board: Y/N Orders and Conditions: Y/N

.....

Is there an appointed Guardian and/or Administrator Y/N

.....

Enduring Power of Guardianship Y/N

.....

Electoral Roll: Y/N Address noted on Electoral Roll Y/N

.....

Share or single room

.....

Cleaning services

.....

Fees and charges are reduced by 30% where a resident is absent for more than 14 days as specified in their contract.

Service Plan

To be reviewed as required, but at least once in every 12-month period from the date of signing.

Showering: Y/N

Frequency.....

Medication: managed by: Resident Y/N SRF Y/N Other

Medication:
.....

Dispensed by pharmacy:
.....

Telephone:
.....

Address:
.....

Medication is stored in:
.....

Drug and Dosage:	Directions
	Directions
	Directions

Relevant medical history:
.....

Any special procedures:
.....

Special dietary requirements:
.....

Financial management: Y/N
.....

Dressing: Y/N

.....

Toileting: Y/N

.....

Eating: Y/N

.....

Hair care: Y/N.....

Podiatry/nail care:

Finger care Y/N:

Foot care Y/N:

Mobility assistance: Y/N

Continence assistance: Y/N

Urine:

Bowel:.....

Laundry: Y/N-resident doing his/her own laundry.

If Yes provide the resident with details regarding charges.

Optical: Y/N

Optician:

Name:

Address:

Hearing:

.....

Behavioural support:

.....

Social - daily needs:

.....

Leisure activities/interests:

.....

Transport requirements:

.....

Safety issues:

.....

Signature and name of resident:

.....

Signature and name of representative:

.....

Signature and name of proprietor/manager:

.....

Dated:

Review date: Signature:

Operational Guideline 3: Standards of Care and Accommodation

1. Introduction

- 1.1 Standards of care are the most important areas covered by the guidelines. They deal with every aspect of a resident's daily life and range from considerations associated with the physical environment to the quality of emotional care provided at a facility.

2. The Importance of Staffing

- 2.1 The quality of practice standards depends on the quality of staff employed in a facility. The quality of staff in turn depends on the attitude of the proprietor/manager towards their business and the type of work environment and culture created.
- 2.2 It is best practice that management and support staff employed at a facility have the following qualifications:
- Disability Studies Cert iii
 - Senior First Aid – Workplace Level 2
 - Provide Physical Assistance with Medication
 - Occupational Health Safety & Welfare / Back Care
- Optional courses*
- Cardiopulmonary Resuscitation – Workplace Level 1
 - Mental Health First Aid
 - Leadership and Management
 - Developing a Food Safety Program
 - Nutrition & Special Diets
- 2.3 Proprietors, managers and staff should have a current National Police Certificate, this is often referred to as a 'police check'. New staff should show they have applied for the National Police Certificate. A statutory declaration can be produced as proof that a National Police Certificate has been applied for.
-

Information and forms for the National Police Certificate can be found at:

www.sapolice.sa.gov.au (then search for National Police Certificate).

Note: Current funding arrangements between SRFs and Department for Families and Communities, Disability SA requires that all staff must have a Police Check.

- 2.4 It is essential that proprietors/managers are clear about the aims and objectives of the services provided at the facility and the accommodation and support care needs of the residents. This will help to determine the minimum number and skill mix of staff required to adequately meet residents' needs, ensure a high degree of care and promote quality of life for residents.

It is a legal requirement to have sufficient staff on duty or on call at night to deal effectively and expeditiously with any emergency situation that may arise. This is in accordance with Regulation 16.

- 2.5 It is essential that at least one staff member with a current Senior First Aid Certificate is rostered on duty or readily available on call at all times. Night-staff should have these qualifications.

- 2.6 Regulation 16 describes the responsibilities of a manager of a facility and requires a proprietor to ensure that they have sufficient resources to enable them to meet their responsibilities.

Regulation 16 (h) stipulates that where there are 30 or more residents residing at a facility management must ensure that the staff includes both a cook and a cleaner in addition to staff who provide personal care services.

Regulation 17 requires the appointment of an acting manager for any period exceeding seven days during which the manager is absent from the duties of office or the position of manager is temporarily vacant, and where a resident needs personal care services. The acting manager must be approved by the licensing authority. An acting manager's appointment cannot exceed three consecutive months.

Regulation 19 covers staffing requirements for nursing homes. Regulation 20 stipulates that a facility that is not a nursing home but provides nursing care must have a registered nurse on staff.

- 2.7 A proprietor/manager must spend a minimum of 25 hours per week, evenly distributed at a facility to ensure its efficient operation in the best interests of residents and for the proper discharge of all managerial responsibilities.
- 2.8 A staff roster must be provided that shows all staff on duty at all times. This should be available to residents so they know who will be rostered on shift.

3. Specific Standards of Care - Personal Care

3.1 Admission procedures

The SRF Intake and Support Program is responsible for undertaking assessments of potential SRF residents through the Single Entry Point (SEP).

The SEP was established to act as a first point of entry into Supported Residential Facilities, by screening potential residents to determine their care needs and suitability for low care, congregate living.

Potential residents screened through the SEP as being suitable for residency in the supported residential facilities sector become eligible for the Board and Care Subsidy payment/s and other government funded support services, including where eligible, Disability Support Packages. Services wishing to place a client at a SRF can have that person assessed for suitability and eligibility prior to doing so.

If the person is considered suitable for referral and the referral is accepted by a supported residential facility, the information obtained about that person is to be provided to the manager of that facility. The referring agency and the prospective resident will make their choice based on a range of factors including services provided, costs and location.

3.2 Privacy, dignity and respect

- 3.2.1 Regulation 8 states that the proprietor of a supported residential facility must ensure that the standards listed below are observed in relation to the provision of personal care services and the operation of the facility.
- (a) Assistance must be offered and provided discreetly and sensitively and, if appropriate, with a reasonable degree of privacy.
 - (b) A resident must so far as is reasonably practicable, be able to display, or to store safely, (according to their choice) their personal effects.
 - (c) The personal property of a resident must not be used by another person without the resident's permission.
 - (d) A resident must not be required to observe unreasonable routines with regard to meal times, bed times, bathing and dressing.
 - (e) Personal information relating to a resident must be treated with confidentiality.
 - (f) A resident must not be expected or required to share clothing, other items of a personal nature, or toiletries, with another person.
 - (g) A resident must be afforded privacy, if they so desire, when engaged in conversation with a visitor, a medical practitioner or other health service provider, or another resident.
 - (h) A resident must be allowed a reasonable degree of privacy when bathing, showering, toileting or dressing (whether alone or with assistance).
- 3.2.2 The Regulation pre-supposes that the resident's rights in these areas will not be sacrificed to routine and the needs of staff or management. The emphasis must be on service to the resident. This is what they are purchasing. This does not prevent negotiation with a resident over the provision of assistance at a time and in a manner that is both suitable to the resident and also reasonable with regard to staff duties and routines.
- 3.2.3 Residents and or/their representatives should ensure that residents have adequate and suitable supplies of clothing for both winter and summer needs.
-

Suitability includes being age-appropriate and meeting the resident's views of comfort and style.

Residents should be encouraged to shop for their own clothing, and provided with assistance and gentle guidance if necessary. If labelling of clothing is required by the facility, it should be done as discreetly as possible.

- 3.2.4 Bedroom doors should be self locking to ensure the resident's privacy and personal safety but still allow staff easy access in case of emergency. Only the residents of that room and staff on duty will have access to a key for that room.
- 3.2.5 In summary, residents must be treated in a manner that not only respects but also enhances their dignity and privacy.

3.3 Confidentiality

- 3.3.1 Section 51 of the Act makes it an offence for a person performing any function under the Act to use confidential information gained by virtue of their position for the purpose of securing a personal benefit or a benefit for some other person.
- 3.3.2 Under the same section, it is also an offence to disclose confidential information intentionally, unless the disclosure is:
- necessary to perform a function under the Act or to help someone else to perform a function
 - made with proper consent
 - authorised under the Regulations or authorised or required by a legal court or tribunal.
- 3.3.3 In addition to this Section of the Act, there are two other requirements under the Regulations. Regulation 6 states that a Resident Contract and Service Plan must be kept in a confidential place at the facility and Regulation 13 (e) (a standard of care dealing with a resident's right to privacy, dignity and respect) requires that personal information about a resident must be treated with confidentiality.
-

Regulation 8 requires that records be kept in a confidential place and made available, on request, to the resident, their representative, or to a medical practitioner or other health service provider, at any reasonable time.

- 3.3.4 It is expected that normal professional standards of confidentiality will apply. These standards allow the exchange of information about a person with another professional worker or significant other person, on a strictly 'need to know basis', and where the intention is to benefit the client. Wherever possible, such exchanges should be specifically approved by the client.

3.4 Personal hygiene and health

- 3.4.1 Regulation 9 states that the proprietor of a supported residential facility must ensure that a resident is able (or assisted) to maintain personal hygiene in a manner consistent with the resident's needs and preferences.

Regulation 21 deals with bathroom facilities and makes the following provisions:

- (1e) Adequate and reasonable bathing facilities must be provided at a supported residential facility.
- (3) Without limiting sub-regulation (1):
 - (a) grab rails must be fitted in shower cubicles, water closets and bathrooms in accordance with Australian Standards AS1428 - 2001
 - (b) hand washing facilities must be easily accessible for residents and staff
 - (c) a reasonable supply of hot water must be available for the use of the residents at any reasonable time
 - (d) hot water for bathing must be provided at a temperature that does not cause scalding.

The following additional standards should be applied to bathroom and toilets in supported residential facilities:

- Toilets and bathrooms should be conveniently located within the building. They should be separated for both sexes and properly signposted. Their design should provide the greatest degree of independence and privacy possible, but allow for residents to be given assistance when necessary.
- Where frail and disabled residents are accommodated, appropriate toilet and bathroom facilities and equipment must be available.
- At least one toilet should be provided for every eight residents. A hand basin should be provided for each toilet, or each three toilets in a block. Mechanical ventilating devices should be installed to extract odours.
- Some showers should allow for seated use.
- Mirrors should be at a height to suit all residents.

Regulation 21 prescribes standards for cleanliness and maintenance and ensures that supported residential facilities:

- Must be maintained in a clean, safe and hygienic condition, and in good and safe repair.
- Provide residents with clean bed linen or a clean mattress as often as is reasonably appropriate to their personal needs and comfort.
- Ensure a reasonable number of appropriate waste receptacles are readily available throughout a facility.

Regulation 21 stipulates that a resident must be provided with adequate laundry facilities with access to hot water or laundering services. Facilities should be in areas separate from the kitchen and food preparation areas and access should not be through a kitchen, bedroom, lounge or dining area.

Laundry facilities should be suitably equipped for the washing, drying, ironing and storage of linen and personal clothing. Separate containers should be provided for clean and dirty articles.

- 3.4.2 Personal hygiene incorporates care of the skin, hair, nails and teeth and is an important component of self-esteem. It is also important for maintaining physical wellbeing and reducing health risks such as skin problems.

- 3.4.3 It is the responsibility of proprietors/managers to ensure that staff with appropriate skills, sensitivity and discretion:
- consult with residents or their representatives to identify personal hygiene needs and preferences
 - document these in service plans
 - monitor and report any significant changes or new/different requirements
 - facilitate assessment and provision of aids or modification when appropriate to encourage independence.

- 3.4.4 Residents who need specialist health care must be referred to and provided with the services they require. Health services to which residents may be referred include, but are not limited to:

- physiotherapists
- dieticians
- incontinence advisers
- occupational therapists
- dental services
- medical services
- chiropractors
- naturopaths
- podiatrists
- psychiatrists
- psychologists.

A resident may be required to obtain a referral from their doctor before these services can be provided.

Note:

Information about referral to appropriate services may also be obtained from local councils, community health centres, SA Health, Disability SA or the Disabilities Information and Resource Centre (DIRC).

3.4.5 Standard precautions are simple and effective personal and work practices to reduce or eliminate the spread of infections. Standard precautions are a recommended practice regardless of perceived individual infectious status and in the handling of:

- blood (including dried blood)
- all other bodily fluids, secretions and excretions (excluding sweat), regardless of whether they contain visible blood
- non-intact skin
- mucous membranes
- other bodily substances including saliva.

Standard precautions include hygiene practices such as hand washing and drying, keeping areas and surfaces clean, management of bodily fluids and appropriate handling and disposal of sharps and other contaminated or infectious waste.

Gloves must be worn in situations requiring direct contact with blood, bodily fluids, broken skin, contaminated surfaces or equipment. Protective equipment (such as gloves, masks and eye shields) provide a barrier but do not negate the need for safe work practices and hand washing.

Hand washing is the most effective protection against common infections. It is essential for workers and residents to follow correct hand washing procedures.

More information about standard precautions and hand washing hygiene can be obtained at: <http://www.health.sa.gov.au/infectioncontrol>; www.health.sa.gov.au (South Australian Infection Control Service) and www.hha.org.au - Hand Hygiene Australia.

3.4.6 There are administrative and confidentiality issues that are specifically related to infectious diseases and their control. Some of the more significant considerations are as follows:

- Employers have a legal and ethical responsibility to provide staff and residents with adequate protection against infection hazards. The consequent requirements include:
 - provision and maintenance of safe facilities
 - adoption of safe systems of work
 - provision of information, instruction, training and supervision
 - a system for accident reporting and follow-up
 - regular appraisal of the work environment and work practices
 - maintenance of adequate staffing levels.
 - Privacy and confidentiality are important considerations in the staff/resident relationship. It is necessary to ensure that access to information about a resident's medical condition/s is strictly limited to appropriate staff members. Procedures for dealing with breaches in resident confidentiality by staff must be clearly formulated and adhered to.
 - Staff have a responsibility to safeguard the privacy of information about residents and to refrain from discussing any information regarding a resident with any person, except in the proper discharge of their duties.
 - Informed consent must be obtained before passing on information from worker to worker or agency to agency. For a resident to exercise informed decision-making and consent, they must have all relevant information presented in the best way to ensure that they understand.
 - Although differential treatment of persons with an infectious disease or particular susceptibility to it constitutes discrimination, the law recognises that in some circumstances discrimination may be necessary. Ultimately, it becomes necessary to strike a balance between private and public
-

health interests. The law objects to unnecessary discrimination; therefore, State and Federal anti-discrimination legislation should be consulted when developing protocols for infectious diseases.

A policy should be in place that describes the process to be implemented in the event of an infectious disease outbreak. These may include gastroenteritis, swine-flu and any viral infection that requires vaccination or special hygiene processes. More information about these processes is available at www.sa.gov.au - Health and Wellbeing Infection control.

The following notes provide a useful practice guide and checklist in assessing and dealing with residents' personal hygiene needs.

Assistance/supervision with bathing/showering

- For residents requiring assistance with bathing/showering, all relevant information should be recorded on the individual's service plan.
- A resident who has been assessed as requiring supervision with bathing/showering must in no circumstances be left unattended in the bath or shower. Use the emergency call bell (if installed) to get help if needed.
- Prepare and gather all equipment required before starting the bath/shower.
- All other residents should be encouraged and supported to manage their own personal hygiene.
- Some residents may at times need to be discreetly reminded residents to bathe or shower at regular intervals.

Care of the skin

- Provide residents with information and assistance to support optimum skin care. For some residents information about their skin care needs may need to be recorded on their service plan. Other residents may need to be encouraged and supported to maintain good care of their skin including the use of moisturisers, pharmaceutical preparations as appropriate and sun protection aids.

- Changes in skin condition must be assessed and treated by the appropriate health professional.
- Provide assistance to residents with continence issues with post-toileting hygiene and skin care where necessary.
- Be aware that ill-fitting shoes, clothing and certain fabrics can cause skin problems. Assist vulnerable residents to avoid clothing that will cause skin irritations.
- Provide a varied and nutritious diet including easy access to potable water.
- Provide aids and equipment to alleviate skin pressure where necessary (some may need to be at the resident's expense).

Podiatry

- Encourage and assist residents where necessary to maintain the condition of their nails.
- Refer residents requiring specialist foot care to a podiatrist.
- Resident's diagnosed with medical conditions affecting their blood circulation, such as diabetes, must be referred to a podiatrist for foot care.

Oral Health and Dental Care

The health of people's teeth, gums and mouths is an important part of overall general health and quality of life. A healthy mouth enables people to eat, speak and socialise without pain, discomfort and embarrassment.

Poor oral health can significantly impact on general health and has links with:

- cardiovascular disease
- stroke
- nutritional deficiencies
- aspiration pneumonia.

It can also complicate the management of many chronic conditions including diabetes, heart disease and respiratory diseases.

Poor oral health can affect a resident's quality of life in many ways including bad breath, tooth loss, appearance, self esteem, ability to eat, nutritional status and pain and discomfort.

Many residents experience poor oral health as a result of their existing health conditions and disabilities, medications, and lifestyle factors.

Improvements in the oral health of residents can be achieved by:

- **Assessing the oral health care needs of all residents** including whether they have seen a dentist in the previous 12 months.
 - Including an **oral health care plan** in the resident's service plan.
 - Encouraging residents to practice **daily oral hygiene** including regular brushing, ideally morning and night. For residents with dentures, reminding them to brush their dentures morning and night using soap and cold water or denture toothpaste.
 - **Referring for dental treatment** promptly when a resident reports an oral health problem or need for check-up. Contact SA Dental Service (tel: (08) 8222 8222) for information on specific dental services for Supported Residential Facility residents.
 - Encouraging residents to avoid sugary and acidic drinks and foods between meals and providing advice related to smoking cessation support services as required.
 - Encouraging residents with dentures to remove their dentures at night to rest gums. Dentures should be cleaned and left in labelled container of cold water overnight.
 - If a resident has an urgent dental problem such as facial swelling, trauma or bleeding, contact your allocated dental clinic or SA Dental Service (tel: (08) 8222 8222) without delay. If the emergency occurs after hours, assist the resident to go to the nearest public hospital emergency department.
-

- For residents requiring additional oral health care, contact your allocated dental clinic for further advice and encourage all residents to attend regular oral health check-ups.
- More information about the SRF Dental Program can be located at: www.sadental.sa.gov.au

Continence management

Encouragement of healthy bladder and bowel habits can assist people to avoid bladder and bowel conditions such as incontinence. These problems can affect both men and women regardless of age and background.

It is essential that assistance is sought for individuals with bowel or bladder problems as these conditions can have a major impact on an individual's quality of life. These conditions can be treated, managed and in many cases cured.

Ensure the facility prospectus accurately outlines the level of assistance provided by staff in relation to support for residents with continence issues.

Assessment and Management

- Arrange for a resident to be assessed by a health practitioner if they are experiencing bladder or bowel issues and ensure recommendations for management of the problem are followed.
- Ensure that all relevant information is recorded in an individual's service plan.

Management techniques may include:

- reminding residents to go to the toilet
 - assisting residents to gain access to the toilet
 - assisting residents to manipulate zippers and buttons if required
 - assisting residents to get on or off the toilet if required
 - providing commodes or urinals at night for those with restricted movement
-

- assisting residents to maintain personal hygiene.

Continence products

These products are used to manage the symptoms of poor bladder or bowel control and may be used short or long term if poor bladder or bowel control cannot be cured. There are a range of products including absorbent pads or pants and absorbent bed sheets and chair covers.

These products aim to:

- keep the skin dry, comfortable and protect it from damage
- enable and encourage people to remain mobile
- protect clothing, bed clothes, furniture and eliminate unpleasant odours.

Health professionals will advise on continence product suppliers and financial packages available to assist people to purchase continence products.

The following websites provide further information on bowel and bladder issues:

www.bladderbowel.gov.au - Bladder and Bowel website, Australian Government, Department for Health and Ageing.

www.continence.org.au - Continence Foundation of Australia.

- 3.4.7 It is the responsibility of authorised officers, health and social welfare professionals and representatives to observe and ascertain whether proper standards for personal hygiene are being maintained and to take appropriate action if they are not. Similarly, the physical environment should be observed to ensure that good hygiene and resident independence is maintained.

3.5 Medication

- 3.5.1 Regulation 13 requires a proprietor to ensure that the following standards are observed in relation to the management of a resident's medication:
- Resident' must be encouraged, where appropriate, to manage their own medication.

- The advice of the resident's medical practitioner, or of a registered nurse, must be obtained if there is doubt about a resident's ability to manage their own medication, or if there is uncertainty about a resident's medication. Any such advice must be recorded in the residents Service Plan.
 - The medication of each resident must be clearly identified, kept separate from the medication of other residents and stored in a secure place.
 - Medication must be kept-
 - in the container in which the medication was dispensed or supplied, or
 - if appropriate, in a dose administration container (Webster pack) that bears a label that includes the resident's name, the generic name and strength of the drug, and the dosage instructions for the resident.
 - Information about arrangements, instructions or directions for the proper management or administration of medication must be readily available to staff and recorded in the resident's service plan.
 - A report must be made to the resident's medical practitioner, or to a registered nurse, if a resident experiences an adverse reaction to any medication, fails to respond to medication in an appropriate manner, or fails to comply with an instruction or direction regarding the management or administration of medication.
- 3.5.2 Failure to take medication or the misuse of medication must be reported to the resident's doctor immediately and all refusals/misuse should be recorded in the service plan.
- 3.5.3 Staff must not force residents to take medication. Staff must not conceal medication in a resident's food, without the express documented permission of the person who originally consented to the medication.
- 3.5.4 Webster packs must only be filled under the direct supervision of a qualified pharmacist or registered nurse.
-

- 3.5.5 The proprietor/manager is responsible for ensuring that medications no longer in use or required are disposed of promptly and correctly (i.e. by return to the pharmacist).
- 3.5.6 Medication management training should be provided to all staff who administer medication.

3.6 First Aid

All facilities must have a properly maintained and accessible first aid kit, in accordance with the *Occupational Health, Safety and Welfare Act* and Regulations. The following is an example of useful contents. For additional advise, contact an appropriate supplier such as the Australian Red Cross or St John Ambulance Australia:

Description	Use
Gauze swabs 75mm x 75mm	Wound cleaning
Individual hand towels	General cleaning other wounds
Individual wrapped sterile strips	Minor cuts and abrasions
Roll adhesive strapping 25mm x 2.5m	Cuts and abrasions
Non-adherent dressings 10cm x 10cm	Moderate wound dressing
Sterile wound dressing	Major wound covering pad
Conforming bandage 50mm	To secure dressings
Triangular bandage 50mm	Emergency dressings/slings
Safety pins	To secure bandages and slings
5" scissors sharp/blunt	To cut dressings/bandages
Splinter forceps	To remove fine foreign bodies

First aid manual	First aid reference
Alcohol preps/antiseptic lotion	Clean areas surrounding wounds
PR disposable gloves	Assist preventing cross-infection

3.7 Specific Standards of Care - Physical Care

3.7.1 The creation of a home-like environment that is homely and comfortable can be achieved in a number of ways, including building design and layout, the furnishings and decor and the arrangement of furniture. The aim is to achieve a domestic rather than an institutional appearance and atmosphere. This can also be assisted by allowing residents to bring personal items of furniture and personal possessions with them and by consulting residents about the home environment and any proposed changes.

3.7.2 Accommodation is required to:

- comply with all relevant planning, building, health, safety and fire regulations
- be appropriate to the needs of residents, including those with special needs
- provide safe, attractive, comfortable living conditions
- maintain rooms at a temperature that is reasonably comfortable for the residents across all seasons
- blend into the neighbourhood
- be accessible to local amenities and services, including shops, health services and public transport.

3.7.3 The following standards should be applied to communal areas:

- lounge and activity areas should provide ample space for each resident

- dining areas should be separate from lounge areas and sufficient to accommodate all residents. In unusual circumstances two sittings may be allowed
- dining furniture should be of a domestic style and seat a maximum of six people at a table
- lounge room furnishings should be comfortable, attractive and arranged to create small group settings. They should include lounge chairs (not all should be vinyl covered), occasional tables, plants, television set, radio/record/cassette/ CD player etc
- a large common area (perhaps the lounge) must have proper heating and cooling to ensure that there is one area for residents to retreat from adverse climate conditions

3.7.4 Residents should be encouraged to regard the facility as their own home. This should be reflected by statements in the facility's prospectus and the way the home is managed in practice. Routines and rules, including signage, should be kept to a minimum and residents involved in their formulation.

3.8 Bedrooms

3.8.1 Regulation 22 states that:

- (1) Each resident of a supported residential facility must be allocated a bedroom (either on a single or share basis), and their own bed.
- (2) A floor plan of the bedrooms at the facility, including the names of residents who sleep in each room, must be maintained at the facility's main office, or at some other convenient location at the facility.
- (3) A resident, or their representative, must be consulted before the resident is allocated another bedroom.
- (4) Proprietors of supported residential facilities established after the commencement of the Supported Residential Facilities Regulations 2009 (1 September 2009) must ensure that each bedroom in the facility is designed for single occupancy and contains a bed.

3.8.2 The following specific standards should be applied in supported residential facilities.

Bedroom allocation

- Where possible, a resident's bed and bedroom should accommodate their needs and preferences, e.g. single or share room.
- A resident and/or their representative must be involved in the allocation of bedroom and bed and in any proposed changes.
- Separate bedrooms should be provided for each sex; however, two adults who jointly request shared, private accommodation may be placed in the same room.

Numbers and space considerations

It is unreasonable for a resident to be expected to sleep, store belongings and spend time with reasonable comfort and privacy with a floor space of less than 8.1 square metres in a single room or 6.3 square metres each in a shared room. Single and double rooms are preferable. Three and four person rooms may be acceptable but greater occupancy will not generally be approved by the licensing authority. Even when there is sufficient space for multiple sharing, such an environment creates the atmosphere of institutional life and has adverse effects on residents' self-perception and the attitude of staff and others. This situation is not congruent with the principles and intent of the Act.

- The minimum distance between bed-head centres should be no less than 1800 mm.
 - The numbers of beds in a room must allow enough space for comfort, privacy and the display or use of personal possessions.
 - Where there are two or more beds in a room, dividers, partitions or suitable furniture (e.g. large storage unit) should be provided and positioned to create maximum privacy.
 - Furniture must be placed for easy bed-making, cleaning and resident access.
-

Design and layout

- Furniture should not obstruct window space.
- Each room should have an outside facing window. (A skylight alone is not acceptable.) This may include towards an internal light source, but must be a window.
- Bedrooms should not provide or be used as a passage way.
- Windows must be fitted with effective fly-screens and with blinds and soft furnishings.

Items to be provided (minimum requirements)

- Bed (1800 mm x 900 mm or larger if required)
- Bed-head
- Mattress
- Two pillows
- Sheets and pillow slips
- Three blankets or equivalent and bed cover
- Bedside table or unit
- Non-slip bedside mats
- Drawer and lockable storage space to ensure store personal items safely
- Individual wardrobe space (big enough for a full summer and winter wardrobe)
- Operable bedside light
- Mirror (as well as convenient access to a full-length mirror)
- Towel
- Individual towel rail.

3.9 Lighting

- 3.9.1 Regulation 21 states that the rooms and passages of a facility, and its grounds, must be reasonably lit. (Lighting must also comply with other relevant Australian legislation and standards.)
- 3.9.2 In addition, passages from bedrooms to toilets and bathrooms should have dim night lighting, preferably an automatic system.
- 3.9.3 Whenever possible and suitable, natural lighting should be used.
- 3.9.4 Lighting should be adequate to enable residents to undertake activities of their choice in areas that are designated or appropriate for the purpose.
- 3.9.5 At night, there should be adequate security lighting to discourage unauthorised entry.

3.10 Nutrition

- 3.10.1 Regulation 10 states that a proprietor must ensure observation of the following standards in relation to a resident's nutrition:
 - (a) A resident must receive suitable and sufficient food and drink, taking into account their particular dietary needs and cultural background.
 - (b) Steps must be taken to ensure that food has reasonable nutritional value and that a variety of foods are made available over a reasonable period of time.
 - (c) Adequate supplies of potable water must always be available.
 - (d) Special dietary requirements and eating difficulties that require assistance must be recorded in a resident's service plan.
 - (e) Meals must be provided at appropriate intervals, and at an appropriate temperature.
 - (f) Tea and coffee making facilities, and cool drink storage facilities, must be available during the day.

Note:

Good Nutrition: Making a meal of it, published and distributed by the Southern Primary Health service in 2011, is a useful resource for guiding staff in supported residential facilities and authorised officers in the appropriate provision of nutrition for residents. This resource will assist management and staff to understand the requirements of the Supported Residential Facilities Act and Regulations and expectations of nutritional standards. It provides detailed information about each of the Regulations outlined in section 10. The resource also provides valuable tips and sample recipes for light meals, main meals, deserts and snacks (including a number of recipes for vegetarians). An audit tool for use by authorised officers is also included which can be used to determine adequacy of food and dietary management in facility.

For a copy of the *Good Nutrition: Making a meal of it* Book contact:

GP Plus Health Care Centre Marion
10 Milham Street
Oaklands Park
SA 5046
08 74258200

Other useful resources include the Australian Guide to Healthy Eating and the Dietary Guidelines for Australian Adults. These can be found at: www.health.gov.au (and search for the name of the resources).

- 3.10.2 The following notes on nutrition provide ideas for preparing and serving food in ways that are healthy, appetising and attractive.

A balanced, varied and nutritious diet

A nutritious diet supplies a balanced intake of food, energy and nutrients aimed at promoting optimal health. Providing variety means that a range of different food are offered from within each of the five main food groups set out in the Australian Guide to Healthy Eating with minimal repetition.

Menu planning

Cooking for large numbers of people in a communal setting should not rule out a variety of meals that are flavoursome and attractive. The basic rules for menu planning are listed below:

- Consider the available budget, staffing and equipment.
- Use the five food group plan as a guide to the types and quantities of foods offered each day. Record the provision of special diets in the service plan.
- Make sure there is a variety of foods and methods of cooking (e.g. braising, roasting, grilling). Avoid repeating the same food on set days (e.g. steak every Wednesday) unless it is a basic, well-liked item such as roast meat.
- Serve plates of food that have colour and design. A sameness of colour (e.g. creamed chicken, mashed potato and cauliflower) makes food look unappetising.
- Aim for a variety of textures within a meal; use a variety of shapes of food. Diced or mashed vegetables put on the plate with an ice-cream server can be very monotonous. Many vegetables can be cut into rings or strips, shredded or left whole occasionally.
- Consider flavour combinations in menu planning. A variety of flavours within a meal is more enjoyable.
- Vary a menu cycle to take advantage of seasonal foods or opportunity buys as they become available.
- Involve residents in selecting recipes and invite regular feedback on the meals/menu provided. This can be achieved through resident surveys. Document this feedback and make changes to menu planning based on the feedback.

Note: Make menus available for residents to browse over; accompany recipes or menus with pictures so that residents understand what is available

and notify residents, in advance of impending changes in menu. This may be done on a central noticeboard.

Menu cycles

A menu cycle refers to how often the planned menu is rotated. A cycle of at least four weeks is recommended as it allows scope for food to be served in a variety of ways.

The advantages of a menu cycle are that:

- residents are less likely to find meals monotonous
- residents may become more interested and involved in the preparation and eating of meals
- the overall nutritional value and variation in the diet can be readily assessed.

Timing of meals and snacks

- Allow ample time for residents' to eat meals at their own pace. Make sure people are able to sit comfortably and talk to each other during and after the meal. Ensure people requiring support are assisted.
- Serve meals at a time the residents prefer and one that fits in with their daily life.

The following are reasonable times between which meals could be served:

Breakfast 7.00 am to 9.00 am

Lunch 12 noon to 2.00 pm

Evening meal 5.00 pm to 7.00 pm

- Meals may be served at other times following consultation and agreement with residents. If the evening meal is completed before 6.00 pm, a more substantial supper (e.g. sandwiches or cheese and biscuits) should be served after 7.30 pm.

Similarly, if lunch is the main meal of the day and the evening meal consists of light food (e.g. soups, salads and sandwiches), a more substantial supper should be served.

Nourishing snacks should be available at other times. These are particularly important for those residents who may need very small, and therefore more frequent, meals.

- Provide adequate fluids (water or other drinks) at meal times and throughout the day. This is particularly important for older people as it ensures adequate hydration and assists in swallowing food. Staff should be careful to offer plenty of fluids in warmer weather.
- Provide facilities, where practicable, for residents to prepare hot and cold refreshments for themselves and their visitors.
- Encourage residents to take part in planning special meals and gatherings.
- Festive occasions and other significant events are an opportunity for creative cooking and special meal presentations.
- Provide friends and relatives with the opportunity to dine with residents at their request.

For further information about food safety go to the Public Health SA website: www.health.sa.gov.au/pehs/ and go to the Food Safety link for fact sheets and other resources.

Assistance with meals

- Encourage and/or assist residents who have eating difficulties. This may include:
 - encouragement to eat
 - observing to make sure a nutritious diet is maintained
 - cutting up food or providing a special soft diet, and/or

- organising special plates, cups and cutlery to ensure a resident remains independent.
- Record special needs and planned interventions in the Resident Contract and Service Plan. Present vitamised meals in an attractive and distinctive way, not as a pureed mass where it all looks the same. Regularly review a resident's need for vitamised meals. This should also be reviewed by the resident's doctor or speech pathologist as required.
- Seek professional advice for people with medical conditions or those diagnosed as being at risk of certain medical conditions. Record a person's special needs in their service plan.

3.10.3 Regulation 21 deals with food hygiene and states that:

(a) Except as otherwise approved by the relevant licensing authority, a supported residential facility must be fitted with a kitchen that has adequate lighting and ventilation, reasonable space, and appropriate equipment. This kitchen must comply with the *Housing Improvement Regulations 2007* and the Food Act 2001 and the Food Regulations 2002.

For copies of these Acts go to: www.legislation.sa.gov.au

(b) A resident must be provided at each meal with eating and drinking utensils that are clean and of good quality.

3.11 Mobility

3.11.1 Under Regulation 11, the proprietor must ensure that the following standards are observed in relation to a resident's mobility:

- (a) A resident must be provided with reasonable assistance to facilitate mobility and independence of movement, if required.
- (b) Steps must be taken to ensure that a mobility aid or equipment used by a resident is in good working order. (The Regulations do not require a proprietor to be responsible for providing mobility aid equipment or for any costs associated with the maintenance of a mobility aid or equipment.)

(c) It is essential that a person's mobility requirements are fully considered at the time of referral to a supported residential facility to determine the suitability of the prospective facility for the person.

3.11.2 It is the responsibility of staff to:

- encourage residents to maintain movement and maximum independence
- ensure measures are in place as required to prevent falls, e.g. non-slip mats at the bedside
- report any change in mobility or movement to the resident's doctor or other health care provider
- where necessary, arrange assessment and assistance through an appropriate agency which may include Domiciliary Care SA
- ensure that all passage ways are free of obstacles
- report environmental obstacles to mobility or movement to the proprietor/manager.

3.12 Activities and independence

3.12.1 Regulation 12 requires a proprietor to ensure that a resident is not prevented from participating in an activity within or outside the facility (provided that the resident does not unreasonably infringe on the rights, peace, comfort or privacy of another person).

3.12.2 The Regulations ensure that no undue restrictions are placed on a person's movements and activities. In seeking to promote optimum standards, a more active approach is ideally required, which would expect staff to:

- encourage residents to participate in group and individual activities of their choice
 - encourage residents to organise their own activities rather than merely remain passive recipients of activities organised by others
 - provide information about community events and promote the participation of residents
-

- utilise properly trained and accredited volunteers to help with residents' recreation and leisure and the organisation of activities
 - be attentive and responsive to residents' ideas, plans and wishes.
- 3.12.3 Residents should be able to enter and leave the facility freely as they wish, provided they observe any necessary rules and conventions such as informing staff of their impending departure and the anticipated time of return.
- 3.12.4 The only exception to this is where there are legitimate concerns about a person's safety if they leave the home unaccompanied. In these cases, the necessary minimum restrictions should be discussed by staff, any health and social welfare professionals involved, the resident and their representative. The restrictions should be recorded in the service plan and all staff made aware of them and any associated requirements. They should be reviewed periodically.
- 3.12.5 Regulation 21 requires that a supported residential facility (or nursing home) that provides accommodation for disoriented residents has an area within its grounds that they can safely use. Limitations on a person's movement should extend only as far as required to protect their safety. Even when there are necessary restrictions, a person should have opportunities similar to those enjoyed by others in the community - in this case, an opportunity to sit or walk outside.

3.13 Notification of certain events

- 3.13.1 According to Regulation 14:
- the proprietor must ensure that a resident's chosen medical practitioner and representative (if any) are informed of a significant deterioration or other event that adversely affects (or could adversely affect) the resident's health or wellbeing, and that details of the situation and reporting are included in the resident's service plan. This includes both on and offsite medical services.
 - if any untoward medical event occurs in relation to the resident, the relevant licensing authority must be informed of the event

- if it appears that a resident is failing to comply with the advice or recommendations of a medical practitioner or other health service provider, the proprietor must take reasonable steps to discuss the matter with the resident, or with their representative, and, if appropriate, with the medical practitioner or health service provider
 - the proprietor must inform the coroner when a resident dies.
- 3.13.2 This Regulation is intended to ensure that proper attention is given to the maintenance of a resident's health and wellbeing and that family members and others as appropriate are kept informed of a person's health and involved in treatment as far as is reasonable.
- 3.13.3 The purpose of the Regulation is also to ensure that appropriate action is taken in critical situations, such as:
- unexplained absences
 - accidents
 - self-destructive or bizarre behaviour
 - incidents involving other residents (e.g. fights).

Apart from recording incidents in the relevant resident contract and service plan and informing appropriate persons (including the police if necessary), there should be established procedures known to staff for dealing with emergencies and these should be reviewed from time to time. The full addresses, telephone numbers and any other relevant details of the people to be contacted should be recorded in all residents' service plans.

- 3.13.4 In addition to contracts and service plans, facilities should maintain a critical incident log book for the immediate recording of serious events by staff. This serves a number of purposes, including accurate and timely communication between staff when shifts change, and consistent action.

3.14 Personal finances

- 3.14.1 The principles in the Act include the statement (Section 7(f)) that *'residents are entitled to manage their own affairs (whenever possible) and must not be subjected to exploitation of their financial or other assets.'*
- 3.14.2 Regulation 15 expands this principle by requiring observation of the following standards in the management of a resident's personal finances:
- (a) A resident must, where appropriate, be encouraged to manage their own personal finances.
 - (b) If a resident is incapable of managing their own personal finances, an appropriate person or authority is contacted about the appointment of an administrator, agent or representative.
 - (c) Any amount received on behalf of the resident is kept in a special account.
 - (d) Accurate and complete financial records are kept in respect of any aspect of a resident's financial affairs that are managed at the facility and those records are made available to the resident, or to their representative, at any reasonable time.
- 3.14.3 Previous information provided in these guidelines (Operational Guideline 1) require proprietors/managers to provide residents with full and accurate information on costs and charges, options for money management, records and accounts and reporting arrangements in the facility prospectus.
- 3.14.4 If any doubt exists about a resident's capacity to take appropriate responsibility for their finances, the matter should be referred to the Office of the Public Advocate or the Public Trustee for advice.
- 3.14.5 Most residents will be able to make 'day to day' decisions about their finances independently or with the assistance of a relative, friend or representative.
- Where this is not the case and referral to the Office of the Public Advocate is required, there are a number of options available. These include:
- Power of Attorney

- Enduring Power of Attorney
- Appointment of a legal guardian or administrator (the latter only has responsibility for a person's money and assets)
- Enduring Power of Guardianship.

3.15 Records

- 3.15.1 Regulation 7 is concerned with the keeping of records within the facility. Personal care records have been covered under service plans in these guidelines (Operational Guideline 2).

3.16 Other environmental standards

There are some other Regulations that deal with minimum physical or environmental standards. These are reproduced below, without elaboration, for the sake of completeness.

- 3.16.1 Regulation 21 Facilities, hygiene, maintenance etc.

Storage facilities must be provided at a supported residential facility to ensure appliances, surplus furniture and equipment, residents' baggage, and other surplus items, are stored so that the facility can be kept clean and tidy, and so that persons can move safely about the facility.

Regulation 21 also relates to standards relating to heating, cooling and ventilation as follows:

- (1) A supported residential facility must be reasonably ventilated.
- (2) The temperature of rooms occupied by residents of a supported residential facility must, so far as is reasonably practical, be maintained at a temperature that is comfortable for residents.
- (3) A communal area must be heated and cooled to ensure residents have a reasonable place to be located in the event of extreme weather.

- 3.16.2 Regulation 23 Fire safety.

- (1) Reasonable precautions must be taken to protect the safety of residents of a supported residential facility from fire.

- (2) Without limiting sub-regulation (1), and other statutory requirements:
- (a) reasonable means of emergency exit for residents must be available at all times
 - (b) the facility must be maintained and managed in accordance with any recommendation of the relevant fire authority
 - (c) a sprinkler system that complies with *Australian Standard AS2118 Part 4* must be installed and maintained in the facility (refer note below)
 - (d) fire fighting equipment must be installed and maintained at a facility in accordance with any recommendation of the relevant fire authority
 - (e) emergency exits must be clearly marked and kept free of impediments
 - (f) an evacuation procedure for residents of the facility must be established at the facility and known to all staff and residents
 - (g) regular evacuation drills must be undertaken at the facility
 - (h) a floor plan or plans that show fire exits and emergency evacuation routes must be kept in an accessible place at the facility at all times.

Note: (2)(c) above, does not apply to a supported residential facility that is, on the commencement of this Regulation (1 September 2009), licensed; or where there are at least two members of the staff (who may not be residents of the facility) in attendance at the facility.

Note: Any new facility licensed after September 2009 must have a residential sprinkler system in accordance with 2(c)

Under the Supported Residential Facilities legislation, the relevant fire authority is the licensing authority and the council's Building Fire Safety Committee.

3.16.3 Regulation 24 Communication facility

The intention of this Regulation is to ensure that there is a communication system (such as a public address system) installed at the facility which

enables communication with residents as required, such as in the case of an emergency.

- (1) A communication system must be installed at a supported residential facility at the direction of the relevant licensing authority.
- (2) A communication system installed at a supported residential facility must be maintained in a fully-functional state.
- (3) Reasonable steps must be taken to ensure that each resident understands how to operate a communication system installed at a facility.

Visitors' book

- 3.16.4 Regulation 7 identifies that the proprietor of a supported residential facility must ensure that a visitor book is kept at the facility's main office or some other convenient place at the facility and contain the name of the visitor, the name of the resident to be visited, the purpose of the visit, the time of arrival and the time of departure. This ensures that the proprietor/manager is aware of who is present at the facility at any time.

Operational Guideline 4: Extension of Care

1. Provisions of the Act

- 1.1 Part 5 Division 2 of the Act deals with additional assistance that might be required by a resident.
- 1.2 Section 41 states that if a resident of a supported residential facility is in need of care that is not provided at the facility, the proprietor must offer to assist the resident to obtain that care.
- 1.3 If a resident does not obtain the additional care within a reasonable time, the proprietor of a facility is further required to report the matter to a known representative of the resident or, if no such person is known, to a member of the resident's immediate family. Immediate family is defined under the Act as:
- (a) spouse or domestic partner
 - (b) brother or sister
 - (c) parent
 - (d) grandparent
 - (e) child or grandchild
 - (f) uncle or aunt
 - (g) nephew or niece
- whether the relationship is of whole blood or half-blood or by affinity.
- 1.4 If no such person described in 1.3 above is known or if, within a reasonable time after a report is made to them, care is not provided, the person in charge is required to report the matter to an appropriate government agency.

2. Regulations

- 2.1 The requirement to provide additional care under Section 41 of the Act is supported by Regulation 14 'Notification of certain events'. This is discussed previously in Section 3, item 3.13.
-

3. Definitions and Interpretations

3.1 This section raises a number of questions of definition and interpretation and these are dealt with in order.

3.2 The first obligation of a proprietor is to offer to assist a resident to obtain additional care, as required, and then facilitate this process.

If the offer for additional care is made and refused by the resident, the proprietor has fulfilled their responsibility. However, consideration should be given to the urgency of the assessed need. If, for instance, the situation is regarded as serious, or potentially life threatening for the individual by the person in charge, it is for the person in charge to make a report, contrary to the resident's wishes, to ensure the individual's safety and to avoid any subsequent charges of negligence. In this instance, there will clearly be a conflict between the resident's right to self-determination and the person in charge's responsibility to preserve life.

According to the principles of the Act, self-determination is in most situations the over-riding principle. However, in situations involving potential harm or the lack of safety of an individual, it is the responsibility of the person in charge to act in the best interests of the resident.

3.3 Regulation 14 does not deal with situations in which a resident does not give permission for assistance to be sought. However, it does allow disclosure to a representative, medical practitioner or health service provider of non-compliance with medical/health advice or recommendations, after attempts to discuss the matter with the resident have been unsuccessful. This would appear to support the appropriate reporting of care needs in serious cases, without the resident's approval and contrary to their wishes.

3.4 Section 41 of the Act is an acknowledgement and a reminder to carers that individual needs and conditions change over time and that there is generally deterioration in health and wellbeing associated with ageing. It underlines the importance of comprehensive and careful initial assessment and regular review of service plans, as described in the guidelines. It also reinforces the importance of the maintenance of proper standards of care.

- 3.5 The proprietor of a facility should ensure that they record in the service plan identified care needs of the resident and any assistance related to extension of care offered to a resident. This is an important practice to support effective treatment and support for the individual and to provide a clear record of the communication that has taken place between the facility and the resident.
- 3.6 Section 41 requires the proprietor to render 'reasonable' assistance to a resident in obtaining additional care. With regard to the principles of the Act, the following is considered reasonable:
- (a) In the first instance, the assumed needs should be discussed discreetly, sensitively and thoroughly with the resident and/or their representative by the proprietor or by another staff member deemed to be appropriate.
 - (b) Secondly, contacts should be made with relevant agencies (social/health/educational/training or other as appropriate) by telephone, or, if this is unsuccessful, by written communication.
- 3.7 Section 41 makes reference to care being provided 'within a reasonable time'. 'Reasonable time' will be defined within the context of a number of factors including the degree and urgency of the identified need. 'Reasonable' should be considered consistent with the time taken to receive care for a similar service by members of the broader community.
- 3.8 If various referrals seeking additional care are unsuccessful, the person in charge is required to report the matters to an 'appropriate government agency'.
- Appropriate government agency may be any Commonwealth or State Department that has a responsibility to provide the care being sought. Advice and assistance may also be sought from the licensing authority.
- In both instances, it would be preferable for the report to be in writing. At the very least, the date and nature of telephone, verbal or other written contacts should be recorded in the resident's contract and service plan.
-

4. Residential-only Premises

- 4.1 Section 42 of the Act extends an identical obligation to residential-only premises that do not require licensing under the Supported Residential Facilities legislation.

The implications are that:

- (a) either the status of a facility will change when two or more residents require personal care services and the facility will, therefore, require licensing under the *Supported Residential Facilities Act*, or
- (b) arrangements will have to be made to transfer residents to other licensed facilities as they require personal care services.

Proprietors of facilities are at liberty to decide the level of services they provide. They cannot be required to accommodate residents whose needs exceed that level. Transfer may be in a person's best interests. Given that relocation may have adverse effects, priority should be given to the resident's wishes, and services sought where possible.

Proprietors/managers are advised to seek guidance in these circumstances from licensing authorities, resident representatives or other health or social welfare professionals involved.

Operational Guideline 5: Residents' Rights to Representation

1. Legislation

- 1.1 Section 46 of the Act states that the rights and powers of a resident, either under the Act or under any contract drawn up between a resident and a proprietor, may be exercised on their behalf by a representative.
- 1.2 Under Section 3 of the Act, a representative must be appointed in writing or be a person otherwise legally entitled to act for the resident. The latter category generally refers to persons appointed as enduring guardians, guardians, delegates or relatives under the *Guardianship and Administration Act 1993*. It may also include anyone else formally granted Power of Attorney.
- 1.3 Throughout the Act, there are specific references to representatives. For example, Section 37 states that a copy of the prospectus must be given to a resident or their representative upon request. These specific references are all subsumed under the general cover given by Section 46.

2. Appointment of Representatives

- 2.1 A resident has the right to appoint in writing (or delegate for someone to write on their behalf) any person (e.g. relative, friend, person who has acted in *loco parentis*) as their representative.
- 2.2 It is not appropriate for a proprietor/manager or other staff member to act as a resident's representative because of the potential conflict of interest.
- 2.3 In some cases, the resident may have some mental incapacity. Under the *Guardianship and Administration Act 1993*, 'mental incapacity' means:
'the inability of a person to look after his or her own health, safety or welfare or to manage his or her own affairs, as a result of:

(a) any damage to, or any illness, disorder, imperfect or delayed development, impairment or deterioration, of the brain or mind; or

(b) any physical illness or condition that renders the person unable to communicate his or her intentions or wishes in any manner whatsoever.'

Some residents with a mental incapacity, as defined, may already have a suitable and properly appointed representative. This may be someone appointed under the *Guardianship and Administration Act 1993* prior to admission to a supported residential facility.

- 2.4 Others will not have an appointed representative even though there is a demonstrable need. In this case, it is appropriate for any health or social welfare professional involved with the resident to make a referral for this purpose, seeking the resident's consent in this process.
- 2.5 If a need for representation is observed by or brought to the attention of an authorised officer, they, in consultation with the resident, should refer the matter to a professional involved with the resident.
- 2.6 The most appropriate agency to be contacted in these circumstances is the Office of the Public Advocate which has a mandate to:
- ensure that the affairs of persons who are dependent on others for their management are adequately handled
 - promote the rights of people with reduced mental capacity.

The Office of the Public Advocate is empowered to investigate situations and to provide information and advice. It can be appointed a person's guardian.

For information about the Office of Public Advocate: www.opa.sa.gov.au

3. Medical, Dental and other Health Professional Treatment Consent

3.1 Relevant legislation

Under the *Guardianship and Administration Act 1993*, as amended by the *Consent to Medical Treatment and Palliative Care Act 1995*, third party consent for treatment for a person with a mental incapacity can be given under either the informal arrangements authorised in the *Guardianship and Administration Act 1993*, or by legally appointed guardians or medical agents.

A person subject to a Guardianship Board Order is a protected person and the Board will regularly review the need for the Order.

3.2 Informal arrangements

Under Section 5 of the *Guardianship and Administration Act 1993*, relatives (defined as a spouse or domestic partner, a parent, a brother, sister, son or daughter over 18 years of age), or a person who is responsible for the daily care of that person, can give but cannot refuse consent to treatment if the person has lost mental capacity and is not objecting to the procedure.

If the person is objecting to the treatment or procedure, determined by their expressed wishes, actions or previous refusal for the same treatment or procedure, consent needs to be sought through the Guardianship Board.

Medical emergencies and life-threatening conditions can be treated by qualified medical staff without consent by using the emergency provisions in the *Consent to Medical Treatment and Palliative Care Act 1995*.

3.3. Formal arrangements - guardians and medical agents

If the patient (whilst competent) has made an Enduring Power of Guardianship (EPG), the appointed guardian has authority (subject to any limitations detailed in the EPG) to consent or refuse consent for medical, dental or other health professional treatment for the patient.

Under all circumstances when the use of force is necessary to enable a treatment/procedure to occur, the person giving consent must be a legally appointed guardian with special Section 32 powers for use of reasonable force. Section 32 powers can only be granted by the Guardianship Board on application, and can be heard at short notice with a rapid turn-around time if necessary.

If the patient (whilst competent) has appointed a Medical Power of Attorney, known as a Medical Agent, that agent has the authority to consent to or refuse medical treatment on behalf of the patient when they are unable to make their own decisions.

If the patient made an Anticipatory Directive (whilst competent), these directions are only applicable when the patient is at the end of life phase.

3.4 Legal documents and the Guardianship Board

While mentally competent, a person can appoint an enduring guardian, medical agent or write an Anticipatory Directive by completing the relevant legal documents.

When mental competence is lost and the person cannot give informed consent, pre-existing legal arrangements come into force.

If there is concern about the suitability of the appointed person (Enduring Guardian) to make the decision, or if relatives cannot agree on the treatment or procedure, the Office of the Public Advocate should be contacted to discuss whether an urgent application needs be made to the Board for the appointment of a suitable decision-maker.

Applicants to the Guardianship Board to consider the appointment of a guardian for health care decisions (covering medical, dental or other health professional treatment) must have a connection with the proposed protected person. This includes relatives, the medical and health professionals proposing the treatment or any other person that the Guardianship Board considers to have a proper interest in the person's health and welfare.

For individual advice on any medical consent matters contact the Office of the Public Advocate. Application forms for the Guardianship Board and a comprehensive list of information sheets are available on the Office of the Public Advocate website: www.opa.sa.gov.au

4. Role and Responsibilities of Representatives

- 4.1 To all intents and purposes, Section 46 of the Act allows a representative to act as if they were the resident, in order to uphold and promote the rights, interests and wellbeing of the resident and to ensure the maintenance of proper standards of care.

- 4.2 In using these powers, the representative must give full respect to the wishes of the resident and not over-ride. Resident autonomy must be respected and encouraged and representatives are under the same obligations to respect the privacy, dignity, confidentiality, wishes and aspirations of the resident as are staff and other professionals.
- 4.3 Representatives are appointed under the Act in order to uphold the resident's best interests. To this end, they have access to all records held on or about the person including contracts and service plans. Representatives are entitled to raise issues with staff and the proprietor/manager and to make complaints and referrals to resolve disputes in the prescribed manner.
- 4.4 While fully promoting residents' interests, representatives should seek to establish a good working relationship with staff and proprietors/managers.

5. Removing Representatives

- 5.1 On occasions, a person who has contact with a resident may become concerned that a representative is failing to act in that resident's best interests or is exploiting the relationship.
- 5.2 It may be appropriate to discuss these concerns in a discreet manner with other people involved with the resident, such as the proprietor/manager, other staff, health professional or authorised officer. This can allay or confirm fears and produce a considered plan of action.
- 5.3 If the resident is not mentally incapacitated, it is appropriate to discuss concerns directly and sensitively with the resident and to provide support and appropriate assistance if the resident wishes to remove the representative or change elements of the relationship.
- 5.4 If the resident is mentally incapacitated, a referral may be made to the Office of Public Advocate. The Office may seek to mediate the situation or, if the matters are significant, apply for the appointment of a guardian or a change in guardian.

Operational Guideline 6: Orderly Conduct and Management of Disorderly and Difficult Behaviour

1. Legislation

- 1.1 The principles of the Act (Section 7) include reference to a resident's right to independence and freedom of choice *'so long as they do not unreasonably infringe upon the rights of others'*.

Section 48 specifically directs the proprietor of a supported residential facility or residential-only premises to ensure, so far as reasonably practicable, that a resident does not unreasonably interfere with the peace, comfort or privacy of another resident or any other person who resides in the locality of the facility or premises.

In this way the Act gives due regard to the interests of residents, neighbours and other people in the local community.

2. Disorderly Behaviour

- 2.1 Proprietors, managers and other staff often have most difficulty managing disorderly conduct in a manner that is effective and which at the same time uses the least possible constraint or control necessary.
- 2.2 Inappropriate, disorderly and offensive behaviour may have evolved for various reasons. It will be most useful in practice if staff members are able to determine what the specific triggers are in the case of particular residents and devise individually appropriate ways of dealing with the behaviours. This issue is discussed in more detail later.

Possible causes of disorderly behaviour may include:

- physical discomfort such as pain or illness
- fatigue

- loss of control over behaviour due to physiological changes in the brain, e.g. Alzheimer's Disease
- side effects of medication
- abusive and disrespectful life experiences
- events outside the home, e.g: problems with family members, or the anniversary of a loved one's death or ongoing grief and loss issues
- inability to release physical and emotional tension in a 'socially acceptable' manner
- changes in routine
- rigid rules and regulations of the facility
- inability to comply with rules and regulations
- misinterpretations between staff and residents
- a clash of personalities between residents and/or staff
- staff talking or behaving inappropriately to a resident
- lack of appropriate consultation with the resident about their needs and routines.

2.3 It is helpful to remember that many residents in supported residential facilities will have had a long, if not life-time, experience of institutional life, frequently dating back to early childhood. Their experience of functional family life, therefore, may be limited. Individuals may find it difficult to negotiate the inevitable complexities of living alongside others in shared accommodation. It is important for staff to consider how best to support such individuals to improve their ability to relate positively with others and enhance their overall quality of life.

3. Difficult Behaviour

- 3.1 Although not necessarily being disorderly, the behaviour of some residents may be difficult to manage and raise concerns among staff for the resident's and others safety and wellbeing.
- 3.2 Many reasons should be considered, e.g. some of the medical/social issues mentioned above or other specific medical causes such as:
- effects of medication
 - impaired vision or hearing
 - digestive problems
 - dehydration
 - the ongoing impacts of chronic illness
 - acute illness, e.g. chest infections, urinary tract infections
 - physical discomfort
 - fatigue
 - anxiety and depression.

4. Assessing Behaviour

- 4.1 As stated, it is most important to consider the origins of behaviour and the possible causes of behavioural changes wherever possible. The person's medical practitioner should always be consulted and often this will be sufficient for proper diagnosis and management.
- 4.2 On other occasions, behavioural problems may require multi-disciplinary diagnosis and intervention. Representatives (which may include medical practitioner, psychologist, social worker, physiotherapist, occupational therapist, etc) should meet in a case conference to discuss relevant issues and strategies for improving the situation for the resident.

The case conference must be attended by staff from the facility as they have the responsibility of day-to-day care and should be as fully informed as possible about the behaviour and support for its management.

The case conference should also be attended by the resident's representative/advocate and the resident, as considered appropriate. There may be occasions where it is considered inappropriate for the resident to attend all or part of the case conference. In this situation, the resident should be fully informed of the outcomes of the case conferences including changes in their care and/or treatment.

Case conference outcomes should be recorded in the resident's service plan.

5. Management of Agitated and Aggressive Behaviour

The following provides a guide for responding to agitated and aggressive behaviour. It may be advisable for proprietors to consider providing staff with more comprehensive training in appropriate aggressive behaviour management approaches.

- Attempt to defuse the behaviour by acknowledging the distress
- Approach the situation in a confident manner
- Don't argue with the person
- Don't order the person around
- Don't be condescending
- Listen to what the person is saying
- Reassure the person
- Give the person a chance to express their feelings.

If these strategies have not been successful in diffusing the situation, the individual may be encouraged to take the opportunity to 'cool down' in a private and safe space. If appropriate, others present may be encouraged to leave the immediate area.

Where residents and staff are in direct physical danger or have been assaulted the police should be involved.

6. Restraint

6.1 Proprietors/managers and staff should understand the legal definition and implications of restraint. This is particularly important for those providing care to people who may behave in challenging and/or aggressive ways.

6.2 The law states that it is false imprisonment when *wrongful and intentional* application of restraint on a person restricts that person's freedom to move from a particular place, or causes the person to be confined to a particular place against their will.

The definition of restraint includes:

- enforced isolation
- psychological intimidation
- the threat of force
- the use of chemicals/drugs
- the use of physical restraint.

6.3 The law emphasises that an adult's freedom of movement must not be interfered with except in situations where there is no other way to prevent serious harm to that person or others.

Physical restraint, therefore, must only be used as a last resort and for the least amount of time necessary, never as a matter of routine or on an ongoing basis.

In cases where physical restraint is being considered as a necessary response, advice and assistance from other appropriate agencies should be sought wherever possible. Such agencies may include:

- SA Police - 131 444
- ACIS-Mental Health Triage Service - 13 14 65

6.4 As a general precaution, staff must take all reasonable measures to make sure that residents, visitors, staff and property are free from any foreseeable risk of harm.

This principle of duty of care derives from common law and it also covers negligence.

Legally, negligence is when damage has been caused by someone's lack of care when they had a duty of care towards the person concerned.

The legal test of responsibility is whether the person who did not take care could reasonably have foreseen the damage.

6.5 A record should be maintained in a log book and resident service plans of all critical incidents, including:

- accidents
- unexplained absences
- acts of violence or destructiveness
- resident involvement in risky activities against staff advice.

Representatives, relatives, health and social welfare professionals and authorities should be advised as appropriate.

6.6 A supported residential facility is not a suitable accommodation setting for a person who cannot be managed without the routine use of some form of restraint. The individual's medical practitioner should be consulted about a thorough assessment of the person's needs and referral to a more suitable accommodation setting.

7. Wandering Behaviour

7.1 Wandering behaviour usually results from a form of dementia but it may be triggered by specific factors, such as:

- unfamiliar environment
- unstructured environment and lack of routine

- lack of interest/engagement in activities offered in the facility
- lack of positive relationships with staff and/or other residents
- excessive stimulation
- psychological health and other individual factors
- disorientation in the ability to differentiate day and night leading to night time wandering.

7.2 If a facility accommodates residents who are disoriented, it should consider the employment of specialised staff or appropriately skilled volunteers to provide recreational options for residents during the day.

Additionally or alternatively, it may be necessary to roster extra staff in the late afternoon and at night when residents who are disoriented may become more restless with a tendency to wander.

Finally, it must be noted that Regulation 21 requires a nursing home or other supported residential facility providing accommodation for disoriented residents to have an area in its grounds that they can safely use.

Operational Guideline 7: Disputes and Complaints

1. Introduction

- 1.1 There may be occasional disputes and complaints that may arise between residents and/or with staff of a facility. It is important that disputes and complaints are dealt with promptly, competently and sensitively and that, whenever possible, the resolution is satisfactory to all parties.
- 1.2 Disputes and complaints should not be treated lightly or ignored. Even apparently trivial incidents may conceal more serious matters. Whenever possible, they should be resolved between the people concerned and with the least formality required. Formal procedures should only be initiated when informal methods have failed.
- 1.3 Residents should be aware that the right to complain is legitimate as is disputation if it is the only way to assert one's rights fairly.

Many people will tolerate unpleasant treatment or conditions because they are reluctant to complain. This reluctance may come from fear of retribution, particularly if they are dependent on others in some way; or it may be because they don't want 'to make a fuss' or 'to be a nuisance' or because they think it will 'be a waste of time'.
- 1.4 While it is a requirement that the proprietor of a supported residential facility must ensure that a procedure for the resolution of disputes is established at the facility, there are challenges associated with ensuring that residents' rights are upheld in practice. The existence of a procedure does not necessarily mean that it will be used in a proper manner. Proprietors and staff exercise considerable power and are in a position, sometimes without being aware, to intimidate residents and disregard their rights.
- 1.5 This is an area, therefore, where the commitment and vigilance of licensing authorities is of considerable importance. Authorised officers need to remain closely connected to the operations of a facility in order to maintain a good level of awareness of the standards of care and environment being provided

at the facility including the management of complaints. This will be assisted by following the guidelines which recommend visiting the facility at scheduled and unscheduled times and creating opportunities for speaking to residents privately.

- 1.6 Particular care, sensitivity and experience will be required in observing and dealing with residents who have difficulties with verbal communication and inter-personal relations. These may include people with intellectual disability, behavioural disorders and mental health problems, or with long histories of deprivation and institutionalisation.
- 1.7 Dispute and complaint resolution must be informed by the principles of the legislation (Section 7) which refer to the rights of residents and also their responsibility to observe other people's rights, and to Section 48 which requires that residents do not interfere with the peace, comfort or privacy of others.

Apart from these general expectations concerning behaviour, the specific content of a contract and/or a service plan may be relevant. People seeking to conciliate should be aware of the terms of these agreements or plans.

- 1.8 In addition to the provisions of the Act and Regulations, proprietors/managers and staff are subject to other legislation in their care of residents. In particular this includes State Equal Opportunity legislation which prohibits both discrimination and harassment in the provision of accommodation, and the Commonwealth Government's *Disability Discrimination Act 1992*. For more information go to:

www.eoc.sa.gov.au – Equal Opportunity Commission (SA)

www.hreoc.gov.au/disability_rights/index.html - Australian Human Rights Commission – Disability Rights

Proprietors/managers and staff should become familiar with the provisions of this legislation.

Residents who consider they are subject to discrimination or harassment should seek assistance from the Equal Opportunity Commission (SA) or

contact the licensing authority, either personally or through a relative or representative.

2. Minor Complaints and Disputes

- 2.1 The Act and Regulations deal quite extensively with disputes and complaints. Their requirements are described in the following sections and illustrated by some practical examples.
- 2.2 The Regulations require facilities to set up disputes procedures, which are dealt with in the next section of this guideline. An example of a dispute procedure is contained in the Sample Prospectus (page 23).
- 2.3 'Minor' cannot be categorically defined and common sense and experience will play a large part in determining the relative seriousness of a dispute or complaint.

However, as previously stated, minor complaints and disputes should not be ignored. They may conceal more serious concerns or develop into serious matters if they are not addressed. They are important to the individuals involved or they may be symptomatic of other needs or concerns.

- 2.4 As a person's world becomes more confined or restricted, such as through age or disability, relatively minor matters can become magnified. The importance of the issue for the resident should not be judged or trivialised and the concern should be responded to respectfully and appropriately.
- 2.5 Disputes may arise between residents due to interpersonal differences. It may be possible to overcome these interpersonal differences through individual and joint discussions with the residents involved so that a compromise is achieved.

Disputes between proprietors/managers or staff members and residents are most likely to arise over house rules/practices or care issues. Generally, some compromise over rules can be achieved through discussion, with a third party acting as mediator if necessary. If a resident complains about a house rule, it is often helpful to work through all options collaboratively to determine an agreeable outcome.

- 2.6 Clearly, the degree of flexibility that can be achieved will depend on the nature and seriousness of the rule or practice.
- 2.7 Complaints over care issues are of a different order to house rules/practices and are potentially more serious, such as violation of a resident's right to privacy or safety. For example a resident may complain about the firmness of handling they received when being assisted with showering. A preliminary investigation by the proprietor/manager may satisfy the proprietor/manager and resident that the support provided while showering was appropriate. However if the preliminary investigation does not satisfy one or both parties, it may need to be taken to a more formal level.

3. Complaints/Disputes Requiring Formal Procedures

- 3.1 Most complaints and disputes requiring a formal procedure will involve either residents and staff members or, more usually, residents and proprietors/managers.
- 3.2 Regulation 25 states that a dispute resolution procedure must be established at a supported residential facility, that it must be incorporated in the facility's rules, and that any complaint must be dealt with promptly, reasonably and in a confidential manner. It also stipulates that the procedure allows for the involvement of an 'independent person' for a resident who requests or needs it.
- Regulation 25 also outlines that if there is a serious dispute (in which the police are involved), the local government authorised officer can assist in the solution.
- 3.3 Under no circumstances may the proprietor/manager or staff member of a facility be nominated as the resident's representative.
- 3.4 It is the responsibility of the proprietor/manager to arrange for the resident's representative to be contacted and advised of the dispute. If the resident does not have a representative and requires one, contact may be made with an authorised officer or a relevant advocacy service.

It is the responsibility of the proprietor/manager to ensure that the resident is informed about advocacy organisations where appropriate. The resident can choose to make contact themselves or request the proprietor/manager, another staff member or some other person to do so on their behalf.

- 3.5 It should be noted that Regulation 25 refers to a resident's right to a representative when they request or need it. In other words, there are deemed to be cases where a judgement will need to be exercised on behalf of a resident because mental incapacity (as defined in the *Guardianship and Administration Act 1993*) prevents the person from making a decision or an informed decision.

In these circumstances, it is again the responsibility of the proprietor/manager or their nominee (as stated in the facility's procedure) to ensure that representation is obtained. This can be done either through direct contact with a listed organisation or through a professional who has regular contact with the resident.

- 3.6 Authorised officers, health service providers, social workers, relatives, friends, representatives or others with a general interest in a resident's welfare have the right to object to a dispute resolution process or outcome if they feel that a resident's interests have not been properly represented.

This will be done most effectively and properly by raising the matter with the proprietor/manager and if a suitable outcome is not achieved, then the matter should be raised with the appropriate licensing authority. The licensing authority may decide to conduct its own dispute process under Section 43 of the Act if the dispute in question is between the proprietor and a resident. Alternatively, a referral may be made to the Office of the Public Advocate if a resident is mentally incapacitated.

- 3.7 The intention of the Regulation is to try to resolve serious disputes satisfactorily through dialogue between the resident, their representative and the proprietor, to avoid the expense, stress and delays involved in formal proceedings with external bodies.

- 3.8 A resident, for instance, may disagree with a proprietor/manager over the terms of their Resident Contract and Service Plan and its interpretation. If informal discussions between the parties fail to resolve the dispute, it becomes necessary to invoke the facility's disputes procedure set up under Regulation 25.
- Note: On receiving notification of a dispute under Section 43 of the Act, licensing authorities should find out whether an attempt to resolve the matter internally has been made. If this has not occurred, the licensing authority should request that this be done and the matter only brought back to them if internal procedures are unsuccessful. The licensing authority should be satisfied that these steps are taken quickly and that the matter has been reasonably resolved.
- 3.9 Under a facility's disputes procedure, once representation has been organised as required, a meeting should be held between the parties concerned. This should be in a private and confidential setting, either at the facility or at another venue suitable to and agreed on by the principal parties (i.e. the disputants).
- 3.10 Those present at the meeting should be the disputants, their representatives and the proprietor/manager or delegated staff representative (as agreed to by the participants).
- 3.11 The purpose of the meeting is to resolve the dispute, ideally in a manner that removes the cause and is acceptable to the disputants. In some circumstances, it may not be possible to make a decision that leaves both parties completely satisfied, but this will be minimised if procedures are handled properly and fairly.
- 3.12 All disputes, a summary of their proceedings and the outcome should be recorded at the facility, preferably in a resident contract and service plan and signed by those present and any and all other parties involved.
- 3.13 While not obligatory, it may be useful and desirable to employ the services of an independent mediator in resolving disputes.
-

The advantages include:

- specific skills, training and experience in the area, which frequently result in a better process and resolutions that are likely to be relatively long-lasting
- impartiality: which is particularly helpful in cases where the proprietor/manager or staff members may otherwise be seen as favouring one party.

Alternatively, mediation services may be approached for general advice on or training in dispute resolution. Any mediation costs should be shared as agreed on by the parties involved.

For more information contact:

- The Southern Community Justice Centre and Community Mediation Services – 8384 5222 or go to: www.scjc.com.au

4. Disputes and Complaints requiring Referral to External Agencies

- 4.1 Complaints will be made and disputes referred to licensing authorities when it has not been possible to resolve the complaint/s within the facility, or when a matter is so serious that it is not responsive to internal resolution.
- 4.2 Disputes meriting or requiring referral to the licensing authority may include the following (this list is illustrative and not exhaustive):
- when a resident disagrees with a decision to end a resident contract
 - when it is believed that the terms of a contract have not been honoured by either party and a stalemate has been reached
 - when a proprietor has acted in an inappropriate way, e.g. being too harsh or unreasonable
 - when the best interests of the resident have been put at risk
 - when a resident acts in a manner that is not in the best interests of the other residents, or is being unreasonable.

- 4.3 Section 43 of the Act allows application to a licensing authority only in cases of a dispute between a resident and a proprietor, not in cases of disputes between residents. However, it may use its other powers under the Act (e.g. Section 49) to intervene and to achieve a more satisfactory or equitable outcome.
- 4.4 Any application must be set out in writing and sent to the licensing authority. It must also set out the reasons for seeking the resolution of the dispute by the authority.
- 4.5 The licensing authority can ask for more information and must let both parties know when the hearing is scheduled.
- 4.6 The licensing authority can decline to proceed with a dispute on specific grounds:
- when it is not satisfied that reasonable steps have been taken under other specified procedures
 - when it considers that it would be more appropriate for legal proceedings to occur
 - if legal proceedings affecting the matter are underway.
- 4.7 The licensing authority can order that terms of agreements be honoured or that certain behaviours or conditions change.
- 4.8 If either party is not satisfied with the licensing authority's decision, they can lodge an appeal to the Administrative Appeals Court, under Section 44 of the Act.
- 4.9 There is provision in the Act for a fee to be charged for the lodging of a complaint to a licensing authority. However, licensing authorities should recognise that the imposition of a fee may act as a deterrent to a resident pursuing a legitimate concern.
- 4.10 Under Section 49 of the Act, licensing authorities are authorised to receive complaints about the management of a supported residential facility or residential-only premises, or about the conduct of a resident of these
-

facilities, and they may take such action as they think fit in relation to the complaint.

- 4.11 The licensing authority may request that the complaint be made in writing. It may appoint an authorised officer to investigate and attempt to resolve the matter as quickly as possible.
- 4.12 Laying complaints is not restricted to a resident and their representative or a proprietor, and may be undertaken by any person.
- 4.13 Complaints may be made about residents as well as the management of a facility. This will include situations where a resident's behaviour disrupts, offends or infringes other residents' rights and this does not change in spite of requests and/or appropriate sanctions. It also covers situations where a resident's behaviour disturbs neighbours or other people in the local community.
- 4.14 A complaint may also arise when a proprietor/manager considers their rights are being disregarded by a resident.

Proprietors' rights include the following:

- to have fees paid on time
 - to be consulted in areas that affect the running of the facility
 - to be informed if a resident is away overnight
 - to have property and furnishings treated with care
 - to be treated with respect and courtesy.
- 4.15 At the end of the investigation of a complaint, a report should be prepared by the licensing authority and letters sent to the parties involved, stating the outcome of the investigation and recommending actions that might resolve the matter further.

5. Assault on or Abuse of Residents

- 5.1 There may be occasions when a resident is assaulted by a staff member or other resident, or is subjected to physical, sexual or emotional abuse.
-

- 5.2 Any such incidents must be reported immediately to both the police and the licensing authority and their advice sought on dealing with the matter.
- In most cases, the primary investigation will be conducted by the police and the licensing authority's role will mainly be to support management, staff and other residents.
- Matters of an urgent nature that may affect the health, safety or welfare of a resident must be investigated immediately where is reasonably possible or within twenty four hours. Investigations of a less urgent nature must be initiated within seventy two hours.
- 5.3 It is essential that all possible steps are taken to separate the victim and alleged perpetrator when an incident occurs. This may involve changes to rosters or accommodation. The intention is to prevent further incidents or conflict and to prevent the possibility of intimidation, harassment or manipulation.
- 5.4 Staff instructions or manuals should include specific references as to how allegations of assault/abuse will be handled by facility management, including the possibility of transfer to other work areas or suspension pending the outcome of an enquiry.
- 5.5 Some general considerations are worth noting in this context:
- Physical abuse may take a variety of forms and include the inappropriate use of drugs.
 - For various reasons, the residents of supported facilities are amongst the most powerless and vulnerable groups in the community and are particularly susceptible to abuse or other forms of exploitation.

Operational Guideline 8: Access to Premises

1. Introduction

- 1.1 Although it will generally be preferable to conduct visits on the basis of a good relationship established between authorised officers and the proprietor/manager and staff of a facility, the primary responsibility of authorised officers and professional health and social workers is to ensure residents' rights and standards of care and all other matters relevant to their accommodation and care at the facility are upheld in accordance with the Act. The Act gives authorised officers the authority and powers to exercise this responsibility in a number of ways, including forced entry to premises and its storage facilities or access to records of any description where necessary.

2. Powers of Authorised Officers

- 2.1 Section 22 of the Act describes the powers of authorised officers in relation to licensed premises and land.
- 2.2 In summary, authorised officers have the power to:
- enter and inspect land and premises at any reasonable time to administer the Act, including the assessment of the legitimacy of continued exemption from the Act
 - inspect books, papers, records etc. and take copies of them; take photographs, films or video recordings as reasonably necessary as evidence; inspect licences and seek the assistance of the proprietor/manager at the time of inspection
 - on reasonable suspicion that an offence against the Act has been or is being committed, or the Act is not being complied with, enter land or premises at any time and, if necessary, break into or open any part of, or anything in or on, the land or premises.

- 2.3 Action at any time can only be taken if it is believed to be required on reasonable grounds; otherwise, a warrant must be obtained from a justice. The justice may only issue a warrant if there are reasonable grounds to suspect an offence or it is believed to be reasonably required in the circumstances. (For example, while not necessarily suspecting an offence, there may be reasonable grounds to suspect that an authorised officer will be obstructed in their duty without the issue of a warrant.)
- 2.4 An authorised officer may be assisted by such persons as may be reasonable in the circumstances. In other words, more than one person may visit and carry out the prescribed duties. The authorised officer may obtain assistance from other government agencies, such as the police.
- 2.5 It is an offence for anyone to:
- hinder or obstruct an authorised officer or anyone assisting, without reasonable excuse
 - abuse, threaten or insult the authorised officer or anyone assisting
 - fail to comply to a requirement or direction, without a reasonable excuse
 - fail to answer a question put by an authorised officer, without a reasonable excuse (unless this would tend to incriminate them)
 - falsely represent, by word or conduct, that they are an authorised officer
 - assault an authorised officer or person assisting in the exercise of powers under the Act.
- 2.6 Authorised officers must have an appropriate identity card and can be required to produce the card as evidence of their authority to exercise powers under the Act.

3. Health Service Providers and Others

- 3.1 Section 47 of the Act states that any health service provider (defined in clause 4 of this section), social worker or any person approved by a licensing authority for the purposes of this provision may enter a supported residential
-

facility or any residential-only premises, at any reasonable time, in order to visit or attend on a resident.

- 3.2 Health service providers, social workers and others authorised under this section may have a dual role to perform. On the one hand, they may be involved in the provision of a direct service or services to a resident. On the other hand, they have the right and obligation to draw the attention of the proprietor/manager or other staff members to any deficiency in the care or treatment of a resident, or to any general deficiency.

If the alleged deficiency is arbitrarily contradicted or ignored for any reason, the health service provider, social worker or other person should raise the issue with an authorised officer of the licensing authority.

- 3.3 If a health service provider, social worker or other person approved under this section has difficulty gaining access to premises or residents, or considers that some impediment(s) is placed in the way of open communication with a resident or residents, they should discuss the matter with the licensing authority. It may be advisable for the service provider or other person to arrange visits in conjunction with an authorised officer.

This is only a short-term measure, however, and efforts should be made by all parties to identify and resolve difficulties.

- 3.4 Resolution of difficulties must in no way compromise the interests and wellbeing of residents, including proper access to any health or other services they may require.

Operational Guideline 9: Licensing of Facilities

1. Legislation

1.1 Legislative requirements are covered comprehensively in the Act by Part 3, Division 1, Sections 9 and 10; Part 4, Division 1, Sections 23 to 31 and Division 2, Sections 32 to 36; and by Part 6, Sections 49, 50, 54 and 57.

Licensing requirements are also referred to in the Regulations.

1.2 The legislation covers all aspects of licensing, including applications, renewals, transfers, conditions, cancellations, appeals and assessment required in granting a licence. It is too detailed to be quoted here and should be read separately in its entirety. For a copy of the Act and Regulations go to: www.legislation.sa.gov.au

1.3 As stated in the Introduction, it should be noted that the Minister has the power to grant full or partial exemptions from the Act.

1.4 The guidelines are intended to provide practical advice to licensing authorities and prospective licensees on the requirements and processes to be followed and to indicate appropriate standards that must be met before a licence is granted. Licensing authorities and proprietors have a duty to ensure that the best possible quality of life for residents is achieved.

1.5 The legislation confers wide powers and duties on licensing authorities and authorised officers. There are specific injunctions which are discussed as considered necessary below. In addition, there are some general powers that allow licensing authorities' considerable discretion.

For instance, in considering an application, the licensing authority must not only take into account the suitability of the applicant (whether an individual or corporate body), the suitability of the premises, the scope and quality of personal care services, the qualifications and experience of the manager and staff and any matters prescribed in the Regulations, but also any relevant

guidelines published by the Advisory Committee. It may also take into account any other matter it thinks fit.

1.6 Similarly and importantly, irrespective of compliance with specific physical and service standards, a licensing authority must not grant a licence if it appears that the facility would not be administered in accordance with the principles of the Act. This is also a reason for non-renewal or cancellation of a licence.

1.7 Clearly, a licensing authority cannot exercise these powers arbitrarily and must have substantial and demonstrable grounds that would stand up in any appeal.

Nevertheless, the legislation's intention is to recognise that good quality care and high standards of service depend on more than a strict adherence to conditions, however broad and rigorous they may be.

2. Qualities of applicants

2.1 One of the requirements placed on licensing authorities is to consider '*the ability of the applicant to fulfil the obligations required by this Act*'. This refers to the proprietor's duties to ensure that the safety and interests of residents are protected and their health and wellbeing are promoted through the quality of care provided. It has two major components.

One is the relevant experience of the proprietor and other staff in the provision of residential and/or caring services and their caring capacities.

The other is related to the proprietor's/manager's general business acumen, so that, as far as possible, residents' security will not be disrupted by business failure.

Both criteria should be applied to corporate bodies as well as individuals.

2.2 In considering an applicant's suitability, licensing authorities should obtain a check on police records and advise the applicant in advance that this will be undertaken, giving them the opportunity to disclose any criminal convictions at the outset. This check applies both to individuals and corporate bodies. In

the latter case, a check will need to cover ‘.....every person who is, in the opinion of the licensing authority, in a position to control or influence substantially the affairs of the body corporate.....’

Having a criminal record should not necessarily disbar a person from being granted a licence. It is an important factor to be taken into account, however, with regard to the nature and frequency of the offence(s) and when it was committed.

Nevertheless, a person should not be involved in the administration or management of a supported residential facility if:

- they are an insolvent under administration within the meaning of the Companies (South Australia) code, or
- they have during the preceding five years been convicted of an offence to a person or an offence involving fraud or dishonesty, or
- they have served a sentence of imprisonment for an offence to a person or an offence involving fraud or dishonesty, being a sentence that ended during the preceding five years.

2.3 A check should also be made with the Australian Securities Commission and the State Business and Corporate Affairs Department regarding company and business registrations.

2.4 The proprietor(s) and manager, where different, must satisfy the licensing authority that they are fit persons to be in charge of a supported residential facility and to run it in accordance with the principles set out in the Act.

To this end, they should be required to submit other references and supporting documentation apart from the police and business checks.

These may include (for new applicants):

- documentation demonstrating financial viability (a business plan/ accountants statement)
 - business or employer's references
 - general character references
-

- residential care references, if previously employed in or in any way associated with a residential care facility
- medical reference - a confidential statement from a registered medical practitioner with regard to the applicant's suitability/fitness to run a facility and their general health, with particular note of any condition or chronic disability that may affect the applicant's ability
- relevant education/training and experience
- description of the facility and its purposes
- layout, standards and proposed conduct of the home (as contained in a prospectus or draft prospectus)
- staffing arrangements.

2.5 Licensing authorities must ensure that applicants have appropriate public liability insurance and that this is maintained.

2.6 Regulation 16 refers to a manager's responsibility for the day-to-day management of the facility and to a number of specific obligations, such as the proper care of residents, the provision of specified personal care services, and ensuring the facility is kept in good repair and clean. They must be in attendance at the facility for at least 25 hours in each week, ensure adequate staffing and supervision and maintain reasonable records.

In ensuring compliance with this Regulation, licensing authorities should require proprietors/managers to submit a sufficiently detailed management plan.

3. Visits and Inspections

3.1 Authorised officers are empowered to investigate:

- adequacy of services
- the standard of facilities, and
- the care and treatment of residents.

In carrying out these functions, authorised officers may:

- inspect any part of the premises
- see any resident
- make any enquiries relating to care and treatment
- have access to all relevant records and documents, including the facility's financial records.

3.2 There are some occasions when it is mandatory for authorised officers to visit facilities. These are:

- on receipt of an application for a licence (the Regulations state that this should be decided within 12 weeks of lodgement)
- for renewal of a licence or for its transfer
- whenever a complaint is received from any source, or
- when there is a direct request for help or a visit.

3.3 Apart from these obligatory visits, enough visits should occur to enable the authorised officer to develop a sound working relationship with the proprietor/manager, in the interests of improving standards of care, and to become acquainted with the residents.

3.4 While attempting to support the proprietor/manager, the authorised officer needs to remain aware of the different aspects of their role and to maintain a professional approach that does not hinder drawing attention to deficits in the physical surroundings or other aspects of care.

3.5 There should be a mixture of scheduled and unscheduled visits and the authorised officer should ensure that they spend some private time with the residents at each visit.

3.6 As licensing authorities, local councils should give careful consideration to the role of authorised officers, ensure that duties are adequately covered in job specifications, appropriate persons are recruited and trained, and adequate supervision and support is provided. In council areas with a small number of supported residential facilities, the duties of authorised officers will most likely

be attached to an existing position or positions. This is acceptable provided that the role is clearly defined, the demands of the position are recognised, sufficient time is allocated for its proper carriage, and the consistency of personnel is ensured as far as possible.

3.7 It will be helpful to all parties and to proprietors/managers in particular, if licensing authorities develop a kit for prospective licensees.

The kit should include:

- copies of the Act, Regulations and guidelines
- copies of building codes, fire regulations and other relevant legislation
- information on staffing requirements
- material on standards of care
- copies of schedules and forms
- local area information
- list of health, welfare, income security and other services and contact addresses/telephone numbers
- other useful reference material.

Operational Guideline 10: Awards

1. Relevant Awards

There are a number of awards that can apply to staff employed in a supported residential facility. All staff should be employed under an award and be afforded the rights and protections and salary as described in those awards

1.1 The Social, Community, Home Care and Disability Services Industry Award 2010 covers employees throughout Australia in the:

- crisis assistance and supported housing sector
- social and community services sector
- home care sector, and
- family day care scheme sector.

This award applies to care workers/support workers employed in a supported residential facility.

For further information about Social, Community, Home Care and Disability Services Industry Award 2010, go to the Awards section of the Australian Government, Fair Work Ombudsman website: www.fairwork.gov.au

1.2 Aged Care Award 2010

For General information about awards and conditions go to:

Business SA www.business-sa.com

Unions SA: www.saunions.org.au

Fairwork Australia www.fairwork.gov.au

Safe Work SA: www.safework.sa.gov.au

Useful Contacts

The local council Authorised officer

The Supported Residential Facilities Association

Supported Residential Facilities Advisory Committee via the Department for Families and Communities Services

The Police (where a legal matter is involved)

Disability SA

Mental Health Services

Housing SA

Adelaide Welfare Rights Centre

Office for the Public Advocate

Guardianship Board

Public Trustee

Home and Community Care (aged care inquiry)

Aged Care Assessment Team (ACAT)

SRF Dental Service

SRF Primary Health Care: Central Northern Adelaide Health Service

South East Regional Health Service (Mt Gambier)

All direct contact details may be located via Google.