



**OFFICE OF THE
PUBLIC ADVOCATE**

**Submission to the Review of the Regulation of Supported
Residential Services in Victoria**

Discussion Paper – May 2008

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Please note: This submission must not be made public until the 2007-08 Community Visitor Health Services Annual Report has been tabled in Parliament. Until this time, the submission must be kept CONFIDENTIAL.

Contents

About the Office of the Public Advocate	3
Summary of recommendations	4
Overview	7
Review of future role of SRS sector	9
Enforcing existing regulations.....	11
Scope of regulation	12
Resident rights and protection (including finances).....	13
Accommodation and resident mix.....	15
Adequate support and care	15
Staffing qualifications and personnel requirements	16
Appendix A.....	19

About the Office of the Public Advocate

The Victorian Public Advocate is appointed by the Governor in Council pursuant to the *Guardianship and Administration Act 1986 (Vic)*. It is a statutory office, independent of government and government services, and can highlight situations in which people with disabilities are exploited, neglected or abused.

The Office of the Public Advocate (OPA) provides advocacy, guardianship and investigation services to people with a cognitive disability. People with a cognitive disability include people with an intellectual disability, a mental illness, an acquired brain injury, dementia and people who are in a coma or otherwise lack the capacity for cognition or communication.

OPA coordinates the Community Guardianship Program and the Private Guardian Support Program, as well as the Community Visitors Program and the Independent Third Person Program. It also has a role in community education, the provision of advice and information and in undertaking research and policy projects.

OPA has had long-standing concerns about the Supported Residential Services (SRS) sector in Victoria. The Public Advocate acted as guardian for 1,383 people in 2007-08. People residing in SRS represent a significant proportion of the people for whom advocacy and guardianship was provided by the Office of the Public Advocate in 2007. Many of these were complex clients not receiving adequate and appropriate support and care from the SRS sector.

Community Visitors in the health services stream made 1,313 visits to 195 SRS in 2007-08. These included 29 visits as a result of referrals via OPA's Telephone Advice Service.

Summary of recommendations

This submission makes the following recommendations:

Recommendation 1:

That a review of the future of the SRS sector is essential, particularly in the context of changing demographics, increasing complexity and the government's commitment to reducing disadvantage.

Recommendation 2:

That the SRS regulations are more effectively monitored for compliance and penalties enforced for those proprietors who consistently breach the Act and associated regulations.

Recommendation 3:

That SRS that are also registered as Retirement Villages be solely covered by the *Retirement Villages Act 1986* (Vic) and administered by Consumer Affairs Victoria.

Recommendation 4:

That the *Retirement Villages Act 1986* be amended to ensure the support needs of residents are regulated including introduction of the Community Visitor program where residents are receiving residential support.

Recommendation 5:

That a standards accreditation system be established for SRS.

Recommendation 6:

That those SRS that choose to participate in the standards accreditation scheme would be visited quarterly by Community Visitors.

Recommendation 7:

That where an SRS chooses not to adopt the accreditation system Community Visitors would visit monthly and report quarterly to DHS on the outcome of those visits.

Recommendation 8:

That the government consider a sliding scale of regulation fees to reduce costs for smaller SRS.

Recommendation 9:

That the regulations be amended to state that an SRS and a rooming house cannot be conducted from the same premises.

Recommendation 10:

That the residential tenancy rights of SRS residents be strengthened to ensure that residents are afforded, at least, the same rights and protections afforded under the *Residential Tenancies Act 1997* (Vic).

Recommendation 11:

That the government review the maximum SRS fee for pension-level residents and consider that it be set no higher than 75 per cent of the social security allowance, thus allowing residents more disposable income for their personal needs.

Recommendation 12:

That the government reinstate a regulatory requirement for SRS proprietors to maintain a central record of incident or injury to residents.

Recommendation 13:

That the SRS regulations be more effectively enforced in relation to the provisions that specify the rights of residents.

Recommendation 14:

That the mechanisms for complaint afford greater protection to SRS residents fearing reprisal.

Recommendation 15:

That the regulatory requirement for SRS Proprietors to maintain a central record of incident or injury to residents be reinstated.

Recommendation 16:

That the Department more rigorously monitor resident documentation, including care plans and residential statements and provide support to proprietors and staff to ensure better quality documentation.

Recommendation 17:

That the Department increases monitoring of medication storage and administration in SRS, and enforce penalties for breaches of the *Health Services Act 1988* and associated regulations.

Recommendation 18:

That the government introduces minimum qualification levels for all personal care staff at SRS, to ensure that SRS residents are provided with the same quality of care as residents in comparable facilities (aged care facilities and shared supported accommodation).

Recommendation 19:

That the hours for a trained the personal care coordinator be increased from 38 hours per week to 24 hours per day.

Recommendation 20:

That the ratio of staff to residents be benchmarked against comparable residential service sectors.

Recommendation 21:

That the government considers the necessity for government intervention to ensure that a workforce or industry plan is developed that enables the SRS workforce to acquire the necessary skills to provide quality services to residents.

Recommendation 22:

That the SRS regulations are revised to ensure that the individual who manages the day to day operations of the SRS is subject to assessment, and that the assessment is not limited specifically to the proprietor.

Recommendation 23:

That SRS facilities are purpose built to meet the needs of SRS residents.

Recommendation 24:

That a scheme of early intervention is adopted to ensure that 'at risk' SRS are identified early and provided the necessary support to overcome difficulties they might be experiencing.

Overview

The Office of the Public Advocate (OPA) welcomes the opportunity that the review of the regulation of Supported Residential Services (SRS) provides.

As outlined in the DHS Discussion Paper, the context in which SRS operate has changed significantly from the context in which the services were originally conceived, thus strengthening the need for this 10-year sunset review of the regulations.

This submission recognises the government's objective of balancing the need to protect vulnerable Victorians and to reduce regulatory burden for businesses.

In addition, OPA acknowledges the significant contribution by government to increase the potential viability of the SRS sector with its introduction of funding for the Supporting Accommodation for Vulnerable Victorians Initiative (SAVVI) in 2006. The viability of SRS is critical to their ability to provide appropriate levels of support and care for residents. The issue of viability was highlighted in the Green Report in 2001.

Importantly, however, this effort to increase the viability of the sector and improve resident support needs, is a band-aid approach to a system that is not functioning to best meet the needs of the residents of SRS. The very fact that additional funding is required to improve the viability of SRS (particularly for pension-level SRS) points to the contradictions inherent in a for-profit (or for fee or reward) approach to providing accommodation and support to one of Victoria's most vulnerable population groups.

OPA therefore emphasises its strong belief that the review of the regulations needs to be accompanied by a broader overall review of the future role of the SRS sector. Previous reviews have highlighted issues that consistently raise significant concerns for the residents of SRS, of which financial viability is only one factor¹. The overlap with other sectors (such as boarding houses and retirement villages) presents ongoing and newly emerging issues, such as inconsistency in regulation, monitoring and visiting. The changing demographic of SRS residents also presents challenges relating to the complexity of resident needs, which will not be resolved by simply improving viability or re-visiting the regulatory approach. Furthermore, the disparity in standards across aged care systems presents an inequity for the residents of SRS that is inconsistent with the goals of broader government policy in addressing disadvantage, as outlined in *A Fairer Victoria*.

OPA recognises, however, that this Review is limited to a focus of the review is on the regulatory scheme, as outlined in the Discussion Paper (p.2). In view of this, therefore, this submission outlines a range of recommendations that relate specifically to this more narrow focus. Ultimately, the position of OPA is that the review should find that there is a need to more effectively enforce the existing provisions within the regulations. It is noted, however, that there are also strategies that could be considered to reduce the regulatory burden. These would involve a review of the overlaps across the above pension-level SRS and

¹ D. Green (2001), Advice to the Department of Human Services on Supported Residential Services, Department of Human Services, Melbourne; Health Department of Victoria (1987), *Final Report: Ministerial Review of Special Accommodation Houses*, Melbourne.

retirement village legislation, the introduction of more effective standards and the recognition of tenancy rights through the *Residential Tenancies Act 1987*. These are outlined in greater depth in the submission.

Broadly, the OPA recommendations outlined in this submission are:

- That the issues confronted by the SRS sector relate to broader issues than those contained in the regulations and that a review of the future of the SRS sector in the context of changing demographics, increasing complexity and the government's commitment to reducing disadvantage is essential
- That there is a need to strengthen the enforcement of existing provisions, particularly for pension-level SRS
- That there is a need to consider the alignment of above-pension SRS with retirement village legislation
- That there are additional, non-regulatory measures that need to be implemented to protect the rights and safety of the residents of SRS. These include:
 - Strengthening tenancy rights
 - Improving staff qualifications
 - Ensuring appropriate resident mix

This submission outlines OPA's views on issues relating to the broad areas outlined in the Discussion Paper. The submission is structured in response to the following issues:

- Review of future role of SRS sector
- Enforcing existing regulations
- Resident rights and protection
- Protecting residents' finances
- Accommodation and resident mix
- Provision of support and care
- Staffing and qualifications

Review of future role of SRS sector

As outlined in the overview, the Office of the Public Advocate strongly believes in the need for a review of the future of the SRS sector. Despite previous reviews, including regulatory reviews, the same issues continue to be raised consistently. These issues include:

- Inadequate support and care plans
 - Inadequate care plans
 - Lack of activities for residents
 - Social isolation of residents
- Lack of disposable income for residents
- Inadequate staff qualifications
- Increasing complexity of resident needs
- Inappropriate mix of residents
- Inadequate resident statements
- Inappropriate client / staff ratio
- Lack of alternative, low-cost accommodation options
- Disparity in standards across SRS and aged care sectors
- Lack of tenancy rights

The Community Visitors Program is one voice that has consistently raised issues such as those listed above (see Appendix A). The range of issues raised in the Community Visitors Health Services Board component of the 2007-08 Annual Report² is equally repetitive. Despite acknowledging the indications of a positive impact of the SAVVI funding, issues were again raised in relation to the lack of tenancy rights, the lack of residents' disposable income, inadequate support for complex needs and the lack of alternative accommodation options.

Notably, these issues have been on the agenda for over 20 years. The Sandon Report raised a number of similar issues in 1987³. These issues included, lack of individualised care, lack of disposable income and the lack of rights (particularly emphasising the right to privacy). Despite the changes that were introduced as a consequence of that report, in 2008, we continue to see the same types of issues creating difficult circumstances for many residents of SRS.

It is important to note, however, that not all SRS experience the issues that are outlined above. Some SRS are able to provide quality care and support for their residents.

² The 2007-08 Community Visitors Annual Report is yet to be finalised and will be presented to the Minister no later than 30 September 2008. Its contents remain confidential until this date.

³ Health Department of Victoria (1987), *Final Report: Ministerial Review of Special Accommodation Houses*, Melbourne.

SAVVI funding will potentially address some of the issues that are raised above. The challenge, however, is that the SRS sector (and most notably, the pension-level SRS) is catering to residents that do not reflect the frail, older people that were the original focus.

It is worth reflecting on the findings from this year's Community Visitors Health Services Board Annual Report. Of the 1,313 visits that were conducted to 195 SRS across the state, Community Visitors reported on 62 instances of good practice. This was of a total of 928 matters that were reported to require attention. While the majority of these were addressed at the local level, a number of serious matters were referred to the regional offices of DHS. In the most recent reporting year (2007-08), 214 issues were referred to DHS for follow-up.

Through the Community Visitors Program, OPA has been calling for a review of the SRS service system since 1999. The Green Report uncovered issues relating to the viability of SRS and made a broad range of recommendations for the future of the SRS sector, from short-term strategies to longer-term strategies. While the introduction of SAVVI has responded to some of these recommendations, there are a range of additional issues that remain unresolved.

The key issues that need to be considered include:

- While originally formed in 1973 and legislated for in 1991, SRS are no longer operating in the context for which they were originally designed
- Since the mid-1990s, Community Visitors have consistently highlighted the fact that residents of SRS comprise a large number of people who were previously residing in institutions
- Community Visitors have noted the tendency for some SRS to create an 'institution-like' environment, thereby negating the original intention for people to benefit from de-institutionalisation
- Since 1998, Community Visitors have highlighted the increasing complexity of needs of people residing in SRS and the inability of the sector to adequately respond to these needs.

While the current review of the SRS Regulations does not provide the scope to review the broader future role of the SRS sector, OPA recommends:

Recommendation 1:

That a review of the future of the SRS sector is essential, particularly in the context of changing demographics, increasing complexity and the government's commitment to reducing disadvantage.

Enforcing existing regulations

OPA acknowledges the government's need to balance its role in protecting vulnerable Victorians with its requirement to reduce the regulatory burden for businesses. As outlined in the Discussion Paper, there is a commitment by the government to reduce the administrative (or reporting) burden on business and not-for-profit organisations by 15 per cent over the next three years, with a target of 25 per cent over five years.

This is in direct contradiction, however, to the government's commitment to reduce disadvantage to vulnerable Victorians through its social policy framework, *A Fairer Victoria*. In the Discussion Paper (p.31), it is argued that in improving the enforcement of existing regulations will lead to potential costs to residents. It is critical to note, however, that this is a direct, financial cost.

The paradox for government is that if it were to reduce the administrative burden for SRS, there is the strong likelihood that the level of protection, care and rights of some of Victoria's most vulnerable citizens will also be reduced. Current enforcement of regulations is minimal and the rate of prosecutions for non-compliance is low. Indeed, concerns regarding the low compliance levels with existing regulations have led the Community Visitors to recommend in their Annual Report for 2007-08:

- That the government requires DHS to more effectively monitor compliance and enforce penalties for proprietors who consistently breach the Act and associated regulations.

Notably, the Victorian Guide to Regulation stipulates that 'government intervention may be justified in the pursuit of social and equity objectives'⁴. The Guide goes on to state that:

there is a strong view within the community that certain goods and services are fundamental or essential and should be provided free of charge to all (or, at least, at concessional rates to those most in need). This helps to explain why governments typically provide financial support for education and **health services**. Restrictions on the prices charged by firms to certain consumers under Community Service Obligations represent another form of redistribution.⁵

This provides scope for the government to consider strengthening the enforcement of the regulations, rather than creating any substantial reductions. In view of the ongoing vulnerability of residents of SRS and failure of many SRS to effectively comply with regulations, OPA believes there is no scope for reducing regulation. It believes:

- that the degree of breaches occurring (particularly in the pension-level SRS) warrants greater attention to enforcement
- that the costs of non-compliance are significant in the context of protecting the rights and safety of a vulnerable population group. Government has significant responsibility (and commitment) to

⁴ Government of Victoria (2007), *Victorian Guide to Regulation*, Department of Treasury and Finance, Melbourne, p.2-2.

⁵ Government of Victoria, *Victorian Guide to Regulation*, p.2-2 (OPA emphasis).

protecting the rights and safety of people who are experiencing frailty, illness and disability. This responsibility cannot be transferred to business.

Recommendation 2:

That the SRS regulations are more effectively monitored for compliance and penalties enforced for those proprietors who consistently breach the Act and associated regulations.

Scope of regulation

OPA is of the view that there is room to reduce the regulatory burden that is created by overlap in the SRS legislation and retirement village legislation. This has the potential to balance the strengthening of regulatory enforcement (that would potentially apply significantly to pension-level SRS). The dual administrative burden created by the overlap in these sectors can be addressed by government.

The introduction of Ageing in Place polices has positively resulted in many people choosing, and with increasingly available assistance and support, being able to reside in the community in retirement villages for longer periods. In the past, many residents of retirement villages would have resided in low care hostel accommodation. They now increasingly remain in retirement villages and require higher levels of support. This results in dual legislative compliance systems. As noted in the Discussion Paper (p.14), many above pension-level SRSs are required to be registered as an SRS and a Retirement Village.

Furthermore, there is potential to consider the establishment of a standards accreditation system that would apply to SRS. This would work to achieve the strengthening of the requirements outlined in the regulations through an alternative mechanism. It would also provide the potential to overcome some of the disparity across the aged care sector in standards. Furthermore, there would be potential strategies for reducing regulatory burden through such a scheme. For example, the visits from Community Visitors might be on a monthly basis to SRS that do not adopt standards, whereas for those who voluntarily participate in adopting standards, visits would be reduced to quarterly.

The distinction drawn in the Discussion Paper between smaller and larger SRS facilities and the potential for regulatory differentiation is one that concerns the Office. Regardless of the size of the facility, residents should be entitled to the protections provided under the regulations. All SRS should meet the requirements set out in the regulations relating to standards of resident care and facilities and fixtures. The government should be willing to consider, however, a sliding scale of regulatory fees based on the size of the SRS to enable the smaller SRS to maintain their viability and also meet the support needs of their residents.

A further consideration is the overlap between boarding houses and SRS. A notable issue for Community Visitors is that some SRS are also rooming houses. This excludes Community Visitors from visiting those individuals who reside in the rooming house section of an SRS. This raises significant issues for Community Visitors seeking to fulfil their role in protecting vulnerable Victorians who require SRS-level support. There is a need to undertake further investigation about the types of accommodation that should be excluded from SRS regulation.

Recommendation 3:

That SRSs that are also registered as Retirement Villages be solely covered by the *Retirement Villages Act 1986* (Vic) and administered by Consumer Affairs Victoria.

Recommendation 4:

That the *Retirement Villages Act 1986* (Vic) be amended to ensure the support needs of residents are regulated including introduction of the Community Visitors Program where residents are receiving residential support.

Recommendation 5:

That a standards accreditation system be established for SRS.

Recommendation 6:

That those SRS that choose to participate in the standards accreditation scheme would be visited quarterly by Community Visitors.

Recommendation 7:

That where an SRS chooses not to adopt the accreditation system Community Visitors would visit monthly and report quarterly to DHS on the outcome of those visits.

Recommendation 8:

That the government consider a sliding scale of regulation fees to reduce costs for smaller SRS.

Recommendation 9:

That the regulations be amended to state that an SRS and a rooming house cannot be conducted from the same premises.

Resident rights and protection (including finances)

As already emphasised, the residents of SRS are a particularly vulnerable and high-risk group. OPA has significant concerns about the safety and security of residents, particularly female residents, in SRS. The right to safety, security of person, privacy and to tenancy rights are frequently questionable in SRS settings. Notably, some of these rights are covered by the *Charter of Human Rights and Responsibilities Act 2006*, highlighting the importance of introducing tenancy rights to SRS residents.

Residents are often reluctant to speak up about issues of concern for fear of reprisal, such as being removed from their current place of residence. Hence, due to their vulnerability, many residents do not use complaint mechanisms. This is a significant issue. Furthermore, adequate access to information about complaint processes is variable and needs to be more consistent. SRS residents are currently exempt from the *Residential Tenancies Act 1997* and have very few of the same residential rights as residents in comparable accommodation sectors. Community Visitors have raised this issue consistently since 1991 (see Appendix A).

Women with cognitive disabilities are particularly vulnerable to violence and sexual exploitation. For example, Community Visitors are aware that payment for lodgings often results in residents not having money for necessities. The Community Visitors Program at OPA has reported that women in these Office of the Public Advocate Submission to the Review of the Regulation of SRS (September 2008)

circumstances have exchanged sexual 'favours' for what they perceive as basic necessities, such as cigarettes and money. In pension-level SRS, the gender mix is predominantly male, which heightens the risk for many women.

Many residents in pension-level SRS are unable to make few real choices about their lives due to their lack of disposable income. There is extensive evidence that people with a disability in Australia experience serious financial disadvantage, and Community Visitors are aware of residents in a pension-level SRS paying up to 95 per cent of their income in accommodation fees.

The issue of privacy is a significant one, and a recurring theme from Community Visitors. In the 2007-08 Annual Report, the issue of privacy and other rights again features. Community Visitors have reported on a range of situations where SRS residents are denied basic rights that many of us take for granted. For example, there are still several facilities where up to three people share a room, therefore affording individual residents little privacy. At one SRS, a resident requested that the proprietor put a lock on his door as he reported items had been stolen from his room.

There have also been several instances of SRS residents or staff being subject to assaults or aggression, hence breaching the principles that outline the safe environment that services should be provided in.

Recommendation 10:

That the residential tenancy rights of SRS residents be strengthened to ensure that residents are afforded, at least, the same rights and protections afforded under the *Residential Tenancies Act 1997*.

Recommendation 11:

That the government review the maximum SRS fee for pension-level residents and consider that it be set no higher than 75 per cent of the social security allowance, thus allowing residents more disposable income for their personal needs

Recommendation 12:

That the government reinstate a regulatory requirement for SRS proprietors to maintain a central record of incident or injury to residents.

Recommendation 13:

That the SRS regulations be more effectively enforced in relation to the provisions that specify the rights of residents.

Recommendation 14:

That the mechanisms for complaint afford greater protection to SRS residents fearing reprisal.

Accommodation and resident mix

The resident mix in many pension-level SRS is problematic, with large numbers of residents with complex care needs congregated with too few skilled staff to provide the necessary programs and supports.

The lack of training and skills that staff have in managing the complex needs of residents often results in inadequate strategies for addressing the difficulties caused by a challenging resident mix. For example, if a resident demonstrates challenging behaviour and disrupts the dynamic amongst the residents, some SRS staff will respond by insisting that the resident leave the SRS. This is not always an effective strategy, particularly when the resident is not moved to appropriate or suitable accommodation.

It is clear, however, that the management of behavioural concerns is a critical challenge for the staff of SRS. This again raises the significance of tenancy rights. Both the resident with behavioural issues and other residents (and staff) are entitled to feel safe and to have their tenancy rights protected. Yet there are no tenancy rights and with minimal (or no) qualifications in managing resident behaviour, achieving the most suitable outcome is particularly challenging. Within the field of health and community services, practitioners with qualifications are frequently challenged by behavioural issues. Yet the SRS staff are often expected to deal with these behavioural issues without any relevant qualifications or experience. This issue is addressed further in the next section on 'Staffing & Qualifications'.

Regarding the physical environment of SRS, OPA believes the SAVVI funding is having a positive impact. Community Visitors have reported on the tangible changes that they have observed as a direct result of this funding. This includes the employment of more staff, repainting of buildings, improved heating, and purchase of new floor coverings and furniture. There is some concern, however, regarding the limited involvement of Community Visitors in the development of an evaluation framework of SAVVI as previously agreed by DHS.

To ensure the greatest benefit from the SAVVI funding, however, it is critical that the regulations are enforced. Issues relating to care plans and resident statements are outlined in the section on 'Adequate support and care'.

Recommendation 15:

That the regulatory requirement for SRS Proprietors to maintain a central record of incident or injury to residents be reinstated.

Adequate support and care

The ideal environment is one in which there is support to meet the individual needs of residents of SRS. Too often, however, there are differences between pension and above-pension level SRS in regard to the quality of residential statements and care plans. Residential statements frequently do not contain the level of information that is necessary to outline what residents can expect for the lodgings that they pay. Care plans often do not contain adequate information about the individual resident's needs. Furthermore, there are frequently reported issues relating to procedures for medication storage and administration in some SRS.

To ensure residents receive the adequate support and care they are entitled to, enforcement of the regulations relating to standards of care in SRS is critical. Care plans need to cover the broad range of health and special or personal care relating to, for example, their health status, medication, dietary needs, interests, mobility and physiotherapy needs. OPA agrees with the comments in the Discussion Paper (p.21) that the scope, quality and content of care plans are inconsistent. This issue has been consistently raised by Community Visitors since the early 1990s.

With the individual needs of residents in SRS becoming increasingly complex, the need for a review of the future role of the SRS sector in providing support and care is further highlighted.

Recommendation 16:

That the Department more rigorously monitor resident documentation, including care plans and residential statements and provide support to proprietors and staff to ensure better quality documentation.

Recommendation 17:

That the Department increases monitoring of medication storage and administration in SRS, and enforce penalties for breaches of the Health Services Act and associated regulations.

Staffing qualifications and personnel requirements

As outlined in an earlier section, the challenges that staff of SRS confront in responding to the complex needs of residents is increasingly difficult in view of the lack of qualifications and experience they hold.

For a number of years, Community Visitors have reported on the increasingly complex needs of SRS residents, particularly in the pension-level sector. In 2007-08, Community Visitors again observed that many staff struggle to provide appropriate support for residents given their needs. Minimal qualification levels are inadequate. Currently, only one member of staff is required to hold a Certificate III in Community Services (or equivalent). As a result, Community Visitors are aware of instances where a staff member with no formal training or qualifications has been left to manage residents for whom medical crises and complex behaviours occur regularly. This is in direct contrast with government-managed facilities providing shared supported accommodation for people with a disability where over 95 per cent of staff are qualified or undertaking Certificate IV training.

There is a strong case for raising the level of minimum qualifications of the personal care coordinator to at least a Certificate IV.

Although proprietors are responsible for ensuring that adequate support staff are required, Community Visitors have also observed that minimum staffing ratios are inadequate given the complex needs of the residents. Significant disparities in the staff / resident ratio between SRS and comparable aged care facilities have been raised consistently by Community Visitors since the mid-1990s. One staff to 30 residents is not adequate. Similarly, the requirement that one staff member be available overnight is not appropriate in the context of residents who often have high and complex health care needs that require attendance.

The Discussion Paper (p.23) raises a significant systemic problem and a paradox for the government. It states:

This review will explore whether current staff skills and competencies are sufficient, or whether alternative approaches are required across part or all of the industry.

This is particularly critical given the diversity of the sector and its residents, and the potential for any blanket increase in staffing levels or qualifications to result in loss of beds from the sector. This could happen due to difficulties in sourcing additional staff (given the current skills shortage), potential loss of existing staff (who, if required to increase their qualifications, may choose to leave the industry), or increases in staff and training costs, resulting in loss of financial viability.

The issues raised by this statement is a significant systemic problem currently being confronted by many sectors that provide health and community services. Issues relating to staff recruitment and retention and the need for industry planning have been raised, for example, in the disability sector, the alcohol and other drug sector and the family violence sector. It is recognised in these sectors that there is a need to ensure that staff have the skills, qualifications and experience necessary to ensure the quality of service provision that the clients are entitled to. There has been significant attention given by government to strengthening the workforce in these sectors.

The residents of SRS are equally as vulnerable and in need of quality service provision as those clients of the abovementioned sectors (indeed, they may often overlap). The residents of the SRS sector are no less deserving of such quality services. OPA is of the opinion that the government has an obligation to ensure that SRS residents receive quality of service. The government cannot entirely handball its obligations and duty of care for this group of vulnerable Victorians to the SRS sector. As noted earlier, the *Victorian Guide to Regulation* is quite clear in its statement that there is a justification (and community expectation) for government intervention in the pursuit of social justice and equity objectives.

This issue relating to staffing qualifications, therefore, raises a significant systemic problem. This again highlights the need for a review of the future role of the SRS sector. If the viability of SRS means that staffing cannot be improved, thereby resulting in inadequate service responses to a vulnerable group, the government needs to reconsider its own role in providing support that works to reduce disadvantage in the context of its social policy commitment outlined in *A Fairer Victoria*.

Furthermore, in instances where the proprietor is not involved in the day to day operation of the SRS, the person who has responsibility for the management of the SRS should be subject to an assessment of their fitness for undertaking the duties and obligations of managing an SRS. Ideally, a list of criteria should be developed in consultation with all relevant stakeholders. Facilities should preferably be purpose built to meet the needs of SRS residents.

Finally, OPA believes it would be preferable that there are identifiers for SRS at risk of not meeting regulatory requirements and potentially requiring external intervention. Ideally, early intervention with clinical advisers and financial advisers should be considered prior to the appointment of an administrator to provide support to assist the SRS manager and / or proprietor to overcome any difficulties they may be experiencing.

Recommendation 18:

That the government introduces minimum qualification levels for all personal care staff at SRS, to ensure that SRS residents are provided with the same quality of care as residents in comparable facilities (aged care facilities and shared supported accommodation).

Recommendation 19:

That the hours for a trained the personal care coordinator be increased from 38 hours per week to 24 hours per day.

Recommendation 20:

That the ratio of staff to residents be benchmarked against comparable residential service sectors.

Recommendation 21:

That the government considers the necessity for government intervention to ensure that a workforce or industry plan is developed that enables the SRS workforce to acquire the necessary skills to provide quality services to residents.

Recommendation 22:

That the SRS regulations are revised to ensure that the individual who manages the day to day operations of the SRS is subject to assessment, and that the assessment is not limited specifically to the proprietor.

Recommendation 23:

That SRS facilities are purpose built to meet the needs of SRS residents.

Recommendation 24:

That a scheme of early intervention is adopted to ensure that 'at risk' SRS are identified early and provided the necessary support to overcome difficulties they might be experiencing.

Appendix A

What have the Community Visitors been saying?

Since the inception of the Community Visitor Program to SRS in 1991, Community Visitors have consistently reported concerns about the suitability of pension-level SRS as a permanent form of accommodation for people who often have complex needs and require specialist support. Long waiting lists associated with a lack of public housing, difficulty accessing shared supported accommodation, and the scarcity and cost of private rental properties mean that many of these residents have few accommodation alternatives and demand continues to grow.

Below is the list of concerns raised over that time.

In the first year 1991 the Community Visitors reported:

- Lack of tenancy protection for residents of SRSs
- Lack of legal status of Residential Statements
- SRSs effectively becoming the new institutions for people moved out of intellectual disability and psychiatric institutions

1992:

- Failure of psychiatric and disability services to provide adequate support to residents of SRSs
- Government moving people out of institutions and into SRSs without providing adequate supports
- Inequity in care provided to pension-level SRS residents as opposed to residents of Commonwealth-funded Aged Care Hostels (low-level-care)

1993:

Introduction of Departmental survey of SRS residents to establish numbers of residents and types of disabilities

- Poor viability of many pension-level SRSs impacting on quality of care provided
- Non-enforcement of regulations in relation to Residential Statements and Care Plans

1994:

- Lack of support for SRS residents with intellectual disability or psychiatric illness from the government or the funded sector, especially given that many of these residents come from large institutions
- Inadequate Residential Statements
- Absence of Care Plans for many residents

1995:

- Inappropriate and adverse mix of residents in many SRSs
- Lack of follow-up support from the funded sector when residents with a disability are placed in an SRS
- Inequality in the level of care provided in SRSs when compared to the funded aged care sector. Inadequate staff/resident ratios
- Absence of any requirement for staff to have qualifications or training
- Large numbers of residents in SRSs with a psychiatric illness or intellectual disability receiving no support from DHS
- Inadequate or absent Residents Statements

- Inadequate or absent Service (Care) Plans
- The impact of viability problems within the sector

1996

Introduction of a requirement for a minimum qualification for one staff member of each SRS

- Shift of large numbers of people with a disability from State run institutions to SRSs. The significant savings this generated (estimated at \$100million per annum) for government not passed on to residents as services or support. Estimated that up to one third of residents of pension-level SRSs previously lived in State institutions
- Care Plans often inadequate, sometimes consisting of a single sentence
- Residential Statements often lacking in detail and missing important information
- Inadequate staff/resident ratios. The ratio of staff to residents in SRSs (1:30) is the worst of any type of residential care setting

1997:

- The need to extend the requirement for a trained Care Coordinator for 38 hours per week to 24 hours per day
- Inadequate staffing and staff/resident ratios
- Inadequate Residential Statements
- Inappropriate placements of residents with high support needs in SRSs
- Inadequate Care Plans and a need for training to assist Care Planning

1998:

Review of Adequacy of Medical Services to residents of SRSs commenced

- De-institutionalisation leading to residents with more complex care needs
- Lack of support and services provided to residents by the government and funded sector
- Unfunded pension-level SRSs replacing large institutions for many people with a disability and the benefits of de-institutionalisation being lost or at the very least significantly reduced for many residents
- Increasing complexity of care needed by many residents of pension-level SRSs

1999:

- Need for an independent review of the role and future of the SRS sector
- Fragile viability of the pension-level SRS sector
- Complex care needs of many SRS residents and the problem of inappropriate placements in an SRS
- Disparity in standards deemed acceptable in the funded aged care sector as opposed to the pension-level SRS sector
- Residents who in the past would have been accommodated in State funded institutions living in unfunded pension-level SRSs with little or no services or support from the government or funded service providers
- Incomplete and inadequate Residential Statement
- Inadequate Care Plans

2000:

Review of Adequacy of Medical Services to residents of SRSs completed

Scottsdale SRS Review reports that they require an annual subsidy of \$5,466 per resident to remain viable

Review of SRSs Bed Number Guidelines (Connard Report) concluded

Where Will We Go Now? A report of the closure of pension-level SRSs in the Western Metropolitan Region released. Highlighted the critical lack of accommodation and care options for this group of people and raised concerns relating to the standard of care of residents in pension-level SRSs

- Urgent need for a review of the role of the SRS in the provision of accommodation and health care for people with a disability
- Staff/resident ratios too high to allow for appropriate care
- Inadequate training for staff of SRSs
- Increasingly complex and high care needs of residents of pension-level SRSs
- Absence of meaningful Care Plans for many residents of pension-level SRSs

2001:

Advice to DHS on SRSs (The Green Report) released. Raises concerns over viability of pension-level SRSs and highlights the need for the development of policies which address the future of the SRS sector

- Viability of pension-level SRSs
- Inappropriate mix of residents in many pension-level SRSs leading to incidences of frail aged residents fearing for their safety
- Poor quality Care Plans
- Dangerously low night-staffing levels
- Inadequate staff/resident ratios especially given the complex high care needs of many residents

2002:

- Need for the government to develop long term solutions to the problems faced by the pension-level SRS sector
- Inadequate staffing arrangements, especially at night
- Need to develop more appropriate models of care for the wide range of residents accommodated in SRSs
- Inappropriate and poor Care Plans
- Inadequate Residential Statements
- Inadequate staff/resident ratios
- Need for more support for residents provided by the funded service sector

2003:

- Need for long term strategies to address the inherent problems within the SRS sector
- Need for all relevant divisions with DHS to work together to address the acute shortage of low cost supported housing
- Inadequate Residential Statements
- Inadequate staff/levels and training
- Institution-like environments with some SRSs

2004:

- Poor capital fabric in the pension-level sector
- SRSs with 'institution-like' practices
- Lack of activities and stimulation for residents
- Inappropriate mixes of residents in terms of disabilities, age and backgrounds
- Inability to cater appropriately for individual resident needs, particularly in larger SRSs
- No security of tenure
- Lack of safety and care at night
- Deficiencies in professional standards including a reliance on untrained staff
- Inadequate staff numbers and, in some cases, a lack of upright overnight staff
- Inadequate personal care

2005:

- Critical shortage of supported accommodation and the problems this creates
- CVs have been reporting for over a decade that there is a shortage of support and accommodation options for people who have ongoing support needs as a result of their mental illness or disability. Privately run pension-level SRSs are often used to fill the gap
- In past decades many people with severe or chronic disabilities would have been locked away in institutions. These days a large number reportedly have periods of homelessness between stays in hospital or prison; many end up living in SRSs or boarding houses. Many SRS residents have complex needs and some have challenging behaviors that make it difficult for them to live in a communal setting
- In the last twelve months, 110 beds have been lost from the pension-level SRS sector. Some of the facilities that closed during the last year were of poor quality and did not provide a decent standard of living for their residents. However, other adequate facilities closed because proprietors could not afford to run them on less than \$40 per day per person

Additionally the OPA Annual Report identified

- The 2003 SRS Census undertaken by the Department of Human Services showed that there is now a high number of people with a mental illness (45%), an intellectual disability (14%) or an acquired brain injury (8%) living in pension-level SRSs and too often SRS staff are not adequately trained to support these people effectively
- There is still a concern that people are often discharged from hospital or transferred from other services without adequate referral information and that ongoing support from external agencies is limited
- There are also concerns that there few activities are organised for SRS residents and the residents experience significant boredom

2006:

Improving the Viability of Pension-Level SRSs, The 2006 State budget, announced funding to establish the SRS Supporting Accommodation for Vulnerable Victorians Initiative (SAVVI). The initiative provided \$29.41 million over four years (\$2.5 million in 2006-07) for an integrated package of measures that will create a stronger foundation for pension-level SRS to improve their viability and capacity to meet the support needs of their residents.

- Lack of alternative accommodation and support options available to the SRS population, many of whom have a mental illness and are at risk of homelessness
- Diverse and complex resident mix in some SRSs which sometimes creates problems in relation to the safety and comfort of residents
- Lack of activities and recreation opportunities
- Concerns about the quality of care and privacy, dignity and choice of residents
- Lack of tenancy rights
- Poor financial and other documentation
- Concerns about maintenance, cleanliness and the physical environment
- Fire safety and other safety issues

Additionally the OPA Annual Report identified

- Home like environment required
- Participation in their community
- Poorly staffed facilities in unacceptable conditions
- Standards need to be strengthened and alternatives created

2007:

Sixty-eight pension-level SRS are participating in SAVVI and received the first of the cost-relief funding in 2007-08

- Increased number of young people with a disability or mental illness living in pension level SRSs
- No clear plan to move young people to more suitable accommodation
- Congregate care facilities are being accepted as a long term option for young people
- Mix of residents in many pension level SRSs, i.e. young people with intellectual disability or mental illness living with frail aged
- Link between inappropriate placement of people with complex needs, poor staff ratios and the increased number of serious incidents (threats with knives, assaults, deaths). Some issues relate to the capacity of staff to handle the complex mix of residents
- Further work is required with the checking of care plans and specific care plan training for proprietors and staff
- Residential rights for SRS residents is needed DHS has discontinued a regional pilot (Dandenong) to improve emergency management including fire safety in SRSs
- Joint meetings with DHS, CFA, WorkSafe, local government and the Community Visitors Program have lapsed
- Vulnerable people are living in shared rooms
- Minimal support provided to many residents

Additionally the OPA Annual Report identified

- HSB has serious concerns about the standard of care and the physical environment in many pension-level facilities
- Staff do not appear to have the skills to effectively support these residents
- Alternative accommodation and support options are not available to young people
- Increased level of violence in pension-level SRSs
- Flow of new funding from SRS SAVVI from 2006 budget is yet to take effect
- More work is need to ensure that SRS residents live lives of dignity in home-like environment and to participate in their community