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| Choice and access to chosen NDIS providers |
| Guidance for supported residential services |
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Proprietors of supported residential services (SRS) must ensure that residents are able to choose and have access to their preferred health care providers. This guidance sets out compliance expectations for SRS proprietors in relation to resident’s choice and access to chosen National Disability Insurance Scheme (NDIS) providers.

# Obligations for proprietors

Proprietors must comply with several requirements that relate to providing residents with choice of and access to their chosen health care providers, including NDIS providers. These are listed in the *Social Services Regulation Act 2021*, the *Social Services Regulations 2023* and the *Social Services (Supported Residential Services) Regulations 2024*. The relevant requirements are set out in the table below.

Requirements relating to providing residents with choice

| Provision | Requirement |
| --- | --- |
| Under Section 40 of the Act  Social Services Standard - service user agency and dignity | Social services are to be person‐centred, and respect and uphold resident rights and agency.  Outcomes of this standard include that:   * the rights of service users are promoted and upheld * service users can exercise their agency and take part in decisions about the social services they receive |
| Schedule 1 of the *Social Services Regulations 2023* | * Proprietors must comply with Service requirements 3 and 19 which relate to informed consent. The purpose of this requirement is to ensure that residents are provided with adequate information and time to make an informed decision, and their consent is given freely and without undue pressure or coercion. * Proprietors must comply with Service requirement 8 which relates to assessing the needs of residents. The purpose of this requirement is to ensure residents are provided with services that address their needs, circumstances, goals and preferences. * Proprietors must comply with Service requirement 10 which relates to cultural safety and inclusion. The purpose of this requirement is to ensure that social services delivered to a resident respect the resident's cultural identity and lived experience. * Proprietors must comply with Service requirement 11 which relates to Aboriginal cultural safety and inclusion. The purpose of this requirement is to ensure that, with respect to Aboriginal residents, a resident's ability to express the resident's culture and enjoy the resident's cultural rights is encouraged and actively supported. * Proprietors must comply with Service requirement 14 which relates to residents’ rights and responsibilities. The purpose of this requirement is to ensure that residents can freely exercise their rights and responsibilities. * Proprietors must comply with Service requirement 18 which relates to inclusion and participation of residents. The purpose of this requirement is to ensure that providers implement and maintain practices that support residents to actively participate in decisions about services provided. |

# Choosing an NDIS provider

Residents in SRS have the right to make decisions about what services they would like to receive and who provides those services. Proprietors of SRS who deliver or facilitate NDIS funded services must offer residents a genuine opportunity to choose their own NDIS provider.

In line with regulation 6 of the *Social Services (Supported Residential Services) Regulations 2024*, proprietors must provide prospective residents with information about health and community services located in the area. This should include giving residents multiple options to address their individual needs so they can make a more informed decision about the services they receive.

Residents may choose the NDIS business of the proprietor or their associate but to avoid uncertainty, proprietors should clearly explain to residents that they are under no obligation to sign up with a particular provider. Proprietors should also be transparent about the type and level of support they are able to offer a resident. This support must be in addition to the personal support services already included in the resident’s SRS fees and set out in their residential and services agreement.

If a resident chooses a third-party NDIS provider, this decision must be respected. The resident should not be adversely affected by their choice and must continue to receive the accommodation and personal support services they are paying the SRS for. Proprietors cannot evict a resident if they do not sign an NDIS Service Agreement with the proprietor or their associate, nor provide a proprietor or their associate with enough NDIS funded hours. Proprietors should also allow other NDIS providers to have reasonable access to the property or the resident’s rooms.

# Demonstrating choice

Where a proprietor delivers or facilitates NDIS funded services, they should be able to demonstrate that they provided the resident with genuine choice. Proprietors should also be able to demonstrate that the resident was not coerced into selecting a particular NDIS provider.

Proprietors should capture this information in a resident’s support plan, case notes or other documentation.

It may be helpful for proprietors to document the NDIS provider options that were explored with the resident as well as the rationale for why the resident ultimately chose their NDIS provider. This could include information about the supports offered by the NDIS provider and how they meet the needs of the resident, for example.

# Compliance and enforcement

The Social Services Regulator (the Regulator) administers the Act and the Regulations, and monitors compliance by SRS proprietors to ensure they meet their obligations.

The Regulator may take regulatory action where an SRS does not have adequate processes in place to separate its SRS and NDIS supports.

Where relevant, the Social Services Regulator will notify NDIS of non-compliance matters so that they may consider regulatory action.

For more information about the Social Services Regulator and its regulatory approach, visit the Social Services Regulator’s webpage <https://www.vic.gov.au/social-services-regulator>

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