

Specialised Substitute Residential Care Code of Practice

31 August 2022

Specialised Substitute Residential Care Code of Practice

From 1 September 2022, all specialised substitute residential care (SSRC) providers must comply with *Schedule 4, SSRC Code of practice for entities providing specialised substitute residential care* (the Code) to the *Children's Guardian Regulation 2022*.

The Code sets out the minimum requirements for SSRC providers, including systems, policies and procedures, intake and assessment, supervision and case planning, staff recruitment and training, and others.

The Code is set out in full below.

The full *Children's Guardian Regulation 2022*, including the Code, can be viewed here:
<https://legislation.nsw.gov.au/view/pdf/asmade/sl-2022-480>

Schedule 4

Code of practice for entities providing specialised substitute residential care

Part 1 Preliminary

1 Definitions

In this Schedule —

centre-based care means specialised substitute residential care provided other than in a private home.

relevant legislation means —

- (a) children’s care legislation, and
- (b) the following Acts and the regulations under the Acts —
 - (i) the *National Disability Insurance Scheme Act 2013* of the Commonwealth,
 - (ii) the *National Disability Insurance Scheme (Worker Checks) Act 2018*.

staff, of an entity providing specialised substitute residential care, includes —

- (a) a member of the governing body of the entity, and
- (b) a person engaged, whether or not the person is paid, by the entity —
 - (i) in management of the services provided by the entity, or
 - (ii) in delivering the services provided by the entity, or
 - (iii) to deliver services on behalf of the entity.

2 Application of code

This code of practice applies to an entity, including a designated agency, providing specialised substitute residential care.

3 Object of code

The object of this code of practice is to establish the minimum obligations an entity providing specialised substitute residential care must comply with to —

- (a) facilitate compliance with the Child Safe Standards, and
- (b) promote improved child safety, and
- (c) promote improved quality and consistency of, and coordination in, the delivery of services to children in specialised substitute residential care, and
- (d) reduce the risk of children entering, remaining in or exiting specialised substitute residential care without appropriate planning and care.

4 Guiding principles

(1) The principal officer of an entity providing specialised substitute residential care must ensure that in providing the care the entity complies with the guiding principles set out in subsections (2)–(6).

(2) Decision-making is child centred

Decision-making, service planning and service delivery for a child in specialised substitute residential care are child centred and take active account of the following —

- (a) the child's preferences, likes and dislikes,
- (b) the child's strengths, skills and abilities,
- (c) the child's personal goals and aspirations.

(3) Role of parents

The parents of a child in specialised substitute residential care have ultimate responsibility for decisions about the child and the services the child receives.

(4) Decision-making is collaborative

Decision-making, service planning and service delivery for a child in specialised substitute residential care should be collaborative and involve continuous consultation with the following –

- (a) the child,
- (b) the parents of the child,
- (c) other providers of specialised substitute residential care,
- (d) providers of supports and services used by the child and the child's family.

(5) Cultural safety

In decision-making, service planning and service delivery for specialised substitute residential care, the entity must consider the needs of the following –

- (a) Aboriginal children and families and Torres Strait Islander children and families,
- (b) children and families from culturally and linguistically diverse backgrounds.

(6) Diversity and inclusion

In decision-making, service planning and service delivery for specialised substitute residential care, the entity must take account of the following –

- (a) the needs of children with a disability and the needs of families of children with a disability,
- (b) the gender identity and sexuality of children in care,
- (c) the gender identity and sexuality of the parents of a child in care.

Part 2 Compliance

5 Compliance with relevant legislation

An entity providing specialised substitute residential care must ensure all staff of the entity are aware of and comply with the relevant legislation.

6 Self-assessment of compliance with Child Safe Standards

- (1) The principal officer of an entity providing specialised substitute residential care must complete a self-assessment of the entity's compliance with the Child Safe Standards.
- (2) The self-assessment must be –
 - (a) completed in the form approved by the Children's Guardian, and
 - (b) given to the Children's Guardian –
 - (i) if the entity was, immediately before 1 September 2022, a registered entity under the *Children and Young Persons (Care and Protection) Regulation 2012* – on or before 1 March 2023, or
 - (ii) otherwise – within 14 days after the entity first provides specialised substitute residential care for a child.

Part 3 Systems, policies and procedures

7 Statements about child safety

- (1) The principal officer of an entity providing specialised substitute residential care must ensure the entity has the following documents —
 - (a) a publicly available statement of the entity’s commitment to child safety,
 - (b) a document informing staff of the entity of the entity’s commitment to child safety and their obligation to contribute to creating a child safe organisation.
- (2) The principal officer must be able to demonstrate, to the satisfaction of the Children’s Guardian, the steps the entity has taken to ensure the documents —
 - (a) have been read and understood by all staff, and
 - (b) are applied by all staff in their work, and
 - (c) are accessible to, and can be understood by, the children for whom the entity provides specialised substitute residential care and their families.
- (3) The principal officer must, if required by the Children’s Guardian, provide the Children’s Guardian with the documents.

8 Code of conduct

- (1) The principal officer of an entity providing specialised substitute residential care must ensure the entity has a code of conduct setting out the standards of behaviour expected of staff interacting with children for whom the entity provides specialised substitute residential care.
- (2) The code of conduct must require staff to report —
 - (a) instances of another staff member having —
 - (i) engaged in reportable conduct, or
 - (ii) been involved in a reportable incident for the purposes of the *National Disability Insurance Scheme Act 2013* of the Commonwealth, section 73Z, and
 - (b) allegations or concerns that another staff member has —
 - (i) engaged in reportable conduct, or
 - (ii) been involved in a reportable incident for the purposes of the *National Disability Insurance Scheme Act 2013* of the Commonwealth, section 73Z, and
 - (c) other concerns about the safety, wellbeing or welfare of a child receiving services from the entity.
- (3) The principal officer of an entity providing specialised substitute residential care must —
 - (a) ensure all staff of the entity —
 - (i) read and understand the code of conduct, and
 - (ii) sign a statement that they have read, understood and will comply with the code of conduct, and
 - (b) enforce the code of conduct, and
 - (c) take action to address breaches, or suspected breaches, of the code of conduct.

9 Risk management

The principal officer of an entity providing specialised substitute residential care must ensure the entity has, and implements, a risk management plan focusing on preventing, identifying and lowering risks to children for whom the entity provides specialised substitute

residential care.

10 Intake, assessment and service planning

(1) The principal officer of an entity providing specialised substitute residential care must ensure the entity has procedures setting out the actions to be taken –

- (a) before a child is provided with specialised substitute residential care, and
- (b) while the child is being provided with the care.

(2) The entity's procedures must address how the entity will –

- (a) obtain information about a child, and
- (b) assess a child's needs, and
- (c) plan the delivery of services to children.

11 Complaint handling

The principal officer of an entity providing specialised substitute residential care must ensure the entity has a complaint handling policy to respond to complaints made by –

- (a) children for whom the entity provides specialised substitute residential care, and
- (b) the parents of children for whom the entity provides specialised substitute residential care.

Part 4 Intake and assessment

Division 1 Information and planning

12 Information gathering

(1) The principal officer of an entity providing specialised substitute residential care for a child must ensure the entity obtains the following information about the child –

- (a) information recorded on the specialised substitute residential care register, including –
 - (i) the number of days the child has spent in care over the previous 12 months, and
 - (ii) the designated agency currently providing or supervising care for the child, and
 - (iii) a case plan for the child,
- (b) relevant information from a designated agency –
 - (i) currently providing or supervising care for the child, or
 - (ii) that has recorded on the specialised substitute residential care register the development of a case plan for the child,
- (c) relevant information held by other organisations or people who are or have been involved in supporting the safety, welfare and wellbeing of the child,
- (d) relevant information about –
 - (i) the formal and informal supports in place for the child and the child's family, and
 - (ii) the child's living and socialisation skills and daily routine, and
 - (iii) specific risks for the child and how the risks will be managed in the specialised substitute residential care environment,

- (e) information about the needs of the child, including —
 - (i) health, medication and disability needs, and
 - (ii) environmental, risk management and mobility needs, and
 - (iii) emotional, behavioural, cognitive and developmental needs, and
 - (iv) nutrition and dietary needs, and
 - (v) cultural, language and communication needs,
- (f) information about the needs of the parents of the child,
- (g) emergency contact details for the parents of the child and other relevant family members.

(2) The entity must obtain the information before the specialised substitute residential care is provided for the child.

(3) However, if the entity does not have access to the specialised substitute residential care register, the information required by subsection (1)(a) and (b) may be obtained within 5 business days after the entity gains access to the register.

13 Information to be given

(1) The principal officer of an entity providing specialised substitute residential care for a child must ensure that, before the entity provides the care, the child and the parents of the child are given information about the following —

- (a) the services the entity can arrange and provide,
- (b) the cost of each service,
- (c) the provider of each service,
- (d) the role in decision-making about the ongoing care and support of the child of the following —
 - (i) the entity,
 - (ii) other service providers,
 - (iii) the child,
 - (iv) the parents of the child,
- (e) the information that will be recorded on the specialised substitute residential care register,
- (f) that the child and the parents of the child may receive information on the specialised substitute residential care register about the child and request that errors in the information are corrected,
- (g) complaint handling processes, both internal and external.

(2) Information must be provided in a way and using language that is readily understood by the child and the parents of the child.

14 Sharing of information

(1) The principal officer of an entity providing specialised substitute residential care for a child must ensure that, before the entity provides the care, the child and the parents of the child are informed that relevant information about the child may be shared with other agencies.

(2) The principal officer —

- (a) must ask the parents of the child to sign an acknowledgment that they have been

informed about the sharing of information with other agencies, and

(b) may ask the child to sign the acknowledgment.

(3) In this section —

relevant information about a child means information relevant to the child's safety, welfare or wellbeing, including information that will be entered on the specialised substitute residential care register.

15 Intake meetings

The principal officer on an entity providing specialised substitute residential care for a child must, if practicable, schedule meetings for intake and assessment at places and times convenient for the child and the parents of the child.

16 Service planning

(1) This section applies to the following information about a child in specialised substitute residential care —

(a) information obtained from the entity's intake process,

(b) information obtained from the entity's regular planning and review of the services provided for the child.

(2) The principal officer of the entity providing the care must use the information to ensure the entity meets the child's ongoing care needs, including the following —

(a) health, medical, mobility and behavioural needs,

(b) communication and personal care needs,

(c) maintenance of relationships with family and significant others,

(d) cultural, spiritual and religious needs,

(e) participation in educational, vocational, social and leisure activities.

Division 2 Placement

17 Placement matching

(1) The principal officer of an entity providing specialised substitute residential care must ensure that when considering the provision of care to a child the entity considers the following —

(a) whether the care is appropriate for the needs of the child and the child's family,

(b) the child's culture, age, disability, language, religion, gender and sexuality,

(c) the individual needs and preferences of the child,

(d) the benefits of placing the child with peers of a similar age and developmental stage and who have similar interests,

(e) the current supports available to the child,

(f) additional supports required to meet the child's needs.

(2) The principal officer must ensure the child is not placed in centre-based care with another person unless an assessment has been undertaken of the following —

(a) risks posed to the child by other persons in the centre-based care,

(b) risks posed by the child to other persons in the centre-based care.

(3) The principal officer must request that the parents of the child make alternative care arrangements if of the opinion that the care is not appropriate for the needs of the child and

the child's family.

18 Age specific placement requirements

(1) The principal officer of an entity providing specialised substitute residential care must ensure that when considering the provision of care for a child who is less than 7 years of age the following principles are considered —

- (a) family care with a focus on individualised care must be the preferred option,
- (b) centre-based care must not be used unless the child has complex health needs that can only be met by centre-based care.

(2) The principal officer must ensure that a child who is less than 16 years of age must not be placed in centre-based care with an adult unless the principal officer —

- (a) has conducted a risk assessment and is satisfied —
 - (i) the placement is appropriate for the child's needs and circumstances, and
 - (ii) the adult presents no risk to the child because the medical support needed by the adult is high, and
 - (iii) there is no other suitable option for the child, and
- (b) has obtained the written consent of the parent or guardian of the child before the care is provided.

(3) The principal officer must ensure that a child who is 16 or 17 years of age is not placed with adults or other children in centre-based care unless the principal officer —

- (a) is satisfied the care is suitable for the individual needs of the child, and
- (b) has conducted a risk assessment, and
- (c) has obtained the written consent of the parent or guardian of the child before the care is provided.

(4) The principal officer must regularly review the care of a child in centre-based care with adults to ensure the care remains suitable.

(5) In this section —

complex health need means a medical condition or a disability requiring specialist medical, nursing or other health care treatments that are not able to be effectively delivered in a home-like environment.

19 Placement to be confirmed in writing

The principal officer of an entity providing specialised substitute residential care for a child must give written notice to the parents of the child confirming the provision of the care within 5 business days after provision of the care begins.

Part 5 Supervision and case planning

20 Supervision

(1) The principal officer of an entity providing specialised substitute residential care for a child who has been in specialised substitute residential care for a total of 90 days or more in a 12-month period must —

- (a) ensure the care is supervised by a designated agency, and
- (b) consult the parents of the child about the supervision and give the parents the name and contact details of the designated agency providing the supervision.

(2) The principal officer must notify the designated agency if the provision of the care no

longer requires supervision.

(3) The principal officer must report a breach by a designated agency of this Regulation, section 40 to the Children's Guardian.

21 Case planning

(1) The principal officer of an entity providing specialised substitute residential care for a child must ensure a case plan —

(a) addresses the following —

- (i) the child's health, medical, mobility, behavioural and personal care needs,
- (ii) maintenance of relationships with the child's family and significant others,
- (iii) the child's cultural, spiritual and religious needs,
- (iv) participation by the child in educational, vocational, social and leisure activities,
- (v) risks associated with the child's care and appropriate management strategies,
- (vi) age-related considerations, including developmental needs and the child's transition to adulthood,
- (vii) long-term care planning, including arrangements for the child to transition out of specialised substitute residential care, and

(b) is reviewed —

- (i) when the child's ongoing care and support needs or care arrangements change, and
- (ii) at least once every 12 months.

(2) If a child receives specialised substitute residential care from more than 1 care provider, the case plan must be prepared by —

(a) the care provider that provides the majority of the care, or

(b) if no care provider provides the majority of the care — the designated agency supervising the care.

Part 6 Staff recruitment and training

22 Recruitment

(1) The principal officer of an entity providing specialised substitute residential care for a child must ensure the entity engages staff with appropriate skills and qualifications for the roles the staff are engaged to fill.

(2) The principal officer must ensure the entity has systems in place to ensure the entity undertakes appropriate pre-employment checks for all staff.

(3) The pre-employment checks must include the following —

- (a) checks required under the *Child Protection (Working with Children) Act 2012* and the *National Disability Insurance Scheme (Worker Checks) Act 2018*,
- (b) professional reference checks with previous or current employers,
- (c) verification of qualifications.

23 Training

(1) The principal officer of an entity providing specialised substitute residential care for a

child must ensure the entity provides —

- (a) child safety awareness training to staff and volunteers, including training in identifying and reporting risks of significant harm to children, and
- (b) regular supervision of, and support to, staff caring for children in specialised substitute residential care.

(2) Child safety awareness training must be completed before the staff member or volunteer commences providing care to a child in specialised substitute residential care.

Part 7 Miscellaneous

24 Record keeping

(1) The principal officer of an entity providing specialised substitute residential care for a child must ensure the entity keeps the following records —

- (a) information obtained in the intake, assessment and service planning processes,
- (b) details of the services the entity has agreed to provide to the child and the child's parents,
- (c) consents given by the parents of the child,
- (d) the responsibilities of the parties involved in providing or supporting the provision of specialised substitute residential care to the child,
- (e) the child's case plan and each review of the plan,
- (f) records about the safety, welfare and wellbeing of children in the specialised substitute residential care provider's care.

(2) The principal officer of an entity providing specialised substitute residential care to a child must give the parents of the child a copy of the records kept under subsection (1)(b)–(d).

(3) Records must be made available for inspection by the Children's Guardian on the request of the Children's Guardian.

Note— See the *State Records Act 1998* in relation to other record keeping obligations.

25 Child leaving specialised substitute residential care

(1) The principal officer of an entity providing specialised substitute residential care for a child must ensure that at the end of the care the child is released to the care of a parent of the child or a person authorised by a parent of the child.

(2) If the parent of the child refuses to resume the care of the child, the principal officer must —

- (a) report the matter to the Child Protection Helpline, and
- (b) arrange short-term care or an alternative emergency placement for the child.

(3) The short-term care or alternative emergency placement must, if practicable, be arranged in collaboration with the parents of the child.

(4) The principal officer must ensure the specialised substitute residential care register is updated with information about the end of the provision of the specialised substitute residential care for the child within 5 business days.

26 Reporting

(1) A person who is required to make a report under the *Children and Young Persons (Care and Protection) Act 1998*, section 27 and who, in the person's work, has reasonable grounds to suspect a child is at risk of significant harm must make a report to the Child Protection Helpline.

(2) The principal officer of an entity providing specialised substitute residential care for a child must –

- (a) ensure the staff of the entity understand their mandatory reporting obligations, and
- (b) notify the Children’s Guardian of all reportable allegations and convictions against a person engaged by the entity whether arising from the person’s work or otherwise,
- (c) report allegations of reportable incidents involving children who are NDIS participants to the NDIS Quality and Safeguards Commission.

(3) In this section –

NDIS participant means a person who is a participant in the National Disability Insurance Scheme established under the *National Disability Insurance Scheme Act 2013* of the Commonwealth.

NDIS Quality and Safeguards Commission means the NDIS Quality and Safeguards Commission established under the *National Disability Insurance Scheme Act 2013* of the Commonwealth, section 181A.

27 Behaviour support

The principal officer of an entity providing specialised substitute residential care for a child must ensure behaviour support for children in specialised substitute residential care is delivered consistently with obligations imposed by relevant legislation.

Office of the Children’s Guardian

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