

Advance Your Advocacy Practice

Protecting the rights of tenants in disability
accommodation settings

Welcome! We will be starting at 10.30am (or close to)



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accommodation settings



Your presenters today



Villamanta Disability Rights Legal Service Inc

Naomi Anderson

Legal Practice Manager



Victoria Legal Aid

Miles Browne

Managing Lawyer

Economic and Social Rights Program

Agenda for today

Different types of accommodation - and how to know the difference

What rights do residents have?

What responsibilities do providers have?

How are disputes dealt with?

Can the provider evict your client?

Who can help?



But first - the big issue

What is a “SIL” house?

“SIL” house

- ▶ This not a term with any legal meaning
- ▶ Used to describe a range of set-ups where providers have attempted to address the fact that the client needs a place to live in order to receive SIL services
- ▶ But the tenancy is not part of the SIL contract and must be separate
- ▶ It is unclear what VCAT will make of these arrangements, there is yet to be a case



A little background

▶ Accommodation regulation before the NDIS

- *Residential Tenancies Act 1997*
- *Disability Act 2006*
- *Supported Residential Services (Private Proprietors) Act 2010*

▶ NDIS leads to changes

- Prioritised access to the NDIS for those receiving supports under *Disability Act 2006*
- *Disability (NDIS transition) Amendment Act 2019* creates “SDA enrolled dwelling” provisions as part of the *Residential Tenancies Act 1997*.
- *Manning v Secretary, Department of Families, Fairness and Housing (Residential Tenancies)* [2023] VCAT 86 undermines transition arrangements for group homes to SDA enrolled dwellings.
- *Disability and Social Services Regulation Act 2023* to broaden and clarify SDA provisions in the and clean up issues with the previous amendments. Key reforms to begin in July 2024 currently.

1. DIFFERENT TYPES OF ACCOMMODATION

Disability Act 2006 accommodation types

▶ 1. Residential Service (definition tightened in 2023)

This is residential accommodation that is :

- provided via a “disability service provider” (either the Secretary or a registered provider - list [here](#))
- where residents are provided disability services through rostered staff provided by the disability service provider
- where admission to the home is approved by the Secretary OR where it is prescribed accommodation.

Examples are residential treatment facilities and forensic disability accommodation.

Does not include accommodation regulated as SDA accommodation under the RTA.

NOTE: Termination of residency is under the Disability Act, and residents have no right to challenge and VCAT has no role.

1. DIFFERENT TYPES OF ACCOMMODATION

***Disability Act 2006* accommodation types**

▶ 2. Group home - (being phased out from July 2024)

A type of “residential service” that is gazetted as a “group home”.

BUT rights and obligations are set out in the *Disability Act 2006*, and possession orders are determined by VCAT. There is no reasonable and proportionate test.

From July 2024 they will transfer to being SDA dwellings regulated under the RTA.

▶ 3. Specialist forensic disability accommodation - (from 2023)

Secretary may declare accommodation to be specialist forensic disability accommodation where the accommodation provided by service provider includes forensic disability support and treatment that is provided to people with intellectual disability or an ABI/neurological impairment.

This is a type of residential service (see above).

2. DIFFERENT TYPES OF ACCOMMODATION

Supported Residential Services (Private Proprietors) Act 2010 accommodation types

Supported Residential Services (SRS)

Definition

- ▶ Means a premises where accommodation and personal support are privately provided or offered to residents for a fee or reward (whether or not registered under the Act).

But not:

- ▶ Premises such as nursing homes where accommodation and care are provided under a Commonwealth residential care subsidy
- ▶ “Residential services” under the Disability Act
- ▶ SDA dwellings under the RTA
- ▶ Accommodation for provision of supervised treatment, designated mental health services, secure welfare services for children and registered retirement villages.
- ▶ Premises where accommodation and personal support is provided to all residents via a funding agreement a public authority that specifies standards for provision of care.

3. DIFFERENT TYPES OF ACCOMMODATION

Supported Residential Services (SRS) continued

Features

- ▶ Run by private providers on a commercial basis
- ▶ Some similar rights and duties to SDA dwellings and RTA
- ▶ Key differences are:
 - ▶ Will have an agreement about services with the accommodation provider
 - ▶ Different fee and rent structures to cover services
 - ▶ Notices to vacate process results in an order of vacation from VCAT, but no reasonable and proportionate test
 - ▶ Very different standards regime which encompasses privacy, independence and choice, protection from abuse, food and nutrition, health and wellbeing and physical environment
 - ▶ Can have community visitors

4. DIFFERENT TYPES OF ACCOMMODATION

Residential Tenancies Act 1997 (RTA)

Tenancies (rental agreements) and rooming houses

Key features

- ▶ RTA provides protections to people residing in a residence even where they don't have a written agreement.
- ▶ Key thing to look for exclusive possession of the premises or room (to be a renter) or that there are four or more people residing in the premises in return for rent (likely to be a rooming house).
- ▶ This will be the case for many of our clients even before we look at whether their property is covered by the SDA dwelling provisions, however there is complexity around the exclusion of health or residential services, for which the definition is quite broad (section 23 of the RTA). The RTA makes clear that SDA enrolled dwellings should not fall within this exclusion.

4. DIFFERENT TYPES OF ACCOMMODATION

Residential Tenancies Act 1997

SDA enrolled dwellings

- ▶ Current definition "SDA enrolled dwelling" means a permanent dwelling that:
 - provides long-term accommodation for one or more SDA residents; and
 - ~~that is enrolled as an SDA dwelling under the National Disability Insurance Scheme (Specialist Disability Accommodation) Rules; and~~ (To be amended in July 2024)
 - that may comprise of—
 - (a) an area or room exclusively occupied by an SDA resident and common areas shared by other SDA residents under an SDA residency agreement; or
 - (b) the dwelling as a whole occupied exclusively by an SDA resident under an SDA residency agreement; or
 - (c) the dwelling as a whole occupied under a residential rental agreement by at least one SDA resident and other occupants who may or may not be SDA residents;

4. DIFFERENT TYPES OF ACCOMMODATION

SDA enrolled dwellings – change to definition – July 2024

- ▶ Wording will change to "SDA dwelling"
- ▶ No longer needs to be enrolled as an SDA dwelling under the NDIS
- ▶ Is now an :
 - an SDA enrolled dwelling; **or**
 - any other permanent dwelling that provides long term accommodation and where daily independent living support is provided to one or more residents with a disability funded by a specified entity or program
- ▶ But requires there to be either an SDA residence agreement or a residential rental agreement.

Handout

- ▶ Different forms of tenancy for people with disability in Victoria
- ▶ Focuses on key differences including :
 - ▶ Role of services
 - ▶ Rent calculation
 - ▶ Upfront fees such as bond
 - ▶ Rights
 - ▶ Summary of some key duties and rights
 - ▶ Complaints processes and dispute resolution options
 - ▶ Termination provisions
 - ▶ Standards and registration
 - ▶ Community visitors
- ▶ Does not include group homes, residential services or rooming houses

How to identify what type of accommodation it is

	Mainstream tenancy	SDA	SRS	"SIL house"
What space do they occupy?	Exclusive possession	Depends on occupancy	Room and shared areas	??
Tenancy agreement?*	<u>Residential rental agreement</u>	<u>SDA residency agreement</u>	<u>Residential and services agreement</u>	
Who is the landlord?	Rental provider	SDA provider	SRS proprietor	

* There are samples on the Consumer Affairs website for RRA and SDA RA

Legislation
under which the
agreement is
made

Signatures and dates

Sign and date either A or B

A. This Agreement is entered into by the SDA provider and SDA resident under section 498F(1)(a) of the *Residential Tenancies Act 1997*.

The SDA provider has explained the contents of the Agreement, and the contents of any Attachment to this Agreement, to the SDA resident:

- (a) in the language, mode of communication and terms the SDA resident is most likely to understand; and
- (b) the explanation of the Agreement was given both orally and in writing where reasonable.

SDA provider (or agent)

.....
[insert signature of SDA provider or agent]

Date: / /
(dd/mm/yyyy)

SDA resident

.....
[insert signature of SDA resident]

Date: / /
(dd/mm/yyyy)

or

B. This Agreement is established between the SDA provider and SDA resident under section 498F(1)(b) of the *Residential Tenancies Act 1997*.

The SDA provider has explained the contents of the Agreement, and the contents of any Attachment to the Agreement, to the SDA resident:

- (a) in the language, mode of communication and terms the SDA resident is most likely to understand; and
- (b) the explanation of the Agreement was given both orally and in writing where reasonable.

SDA provider (or agent)

.....
[insert signature of SDA provider or agent]

Date: / /
(dd/mm/yyyy)

The law, regulations, rules etc

State

Residential Tenancies Act 1997

Supported Residential Services (Private Proprietors) Act 2010

Supported Residential Services (Private Proprietors) Regulations 2012

Some policy documents where DFFH is landlord
(See here)

Commonwealth

National Disability Insurance Scheme Act 2013

SDA rules

SDA Design Standard

National Disability Insurance Scheme (Code of Conduct) Rules 2018

NDIS Code of Conduct

Pricing arrangements for Specialist Disability Accommodation

We know you don't want to read ANY of these - but you will see why we listed them when we talk about disputes

SDA - a deep dive

- ▶ We will be using SDA as an example to work through the topics today
- ▶ Your handout has the relevant information for mainstream tenancy and SRS
- ▶ We know “SIL Houses” are generally not SDA - but it is useful to know what the framework is for SDA so you know what it should look like
- ▶ Please feel free to ask any questions as we go along - we will circle back to “SIL houses” at the end



Relationship
to services

ZERO

Relationship to services (cont)

- ▶ Or at least it should be!
- ▶ The tenancy is separate from the service provision
- ▶ This was a major shift, and unfortunately not all service providers are clear on this
- ▶ It seems likely that former employees of group homes are involved in setting up new models - because they often use the old arrangements down to quite specific examples
- ▶ The complications arise when co-residents share SIL and have differing views on who the provider should be - but we will get to that!

House Rules. Are they enforceable?

11. House rules

- (a) The SDA resident must comply with the House rules for the SDA enrolled dwelling (if any) that are included at Attachment 7 of this Agreement.
- (b) The SDA provider must explain the contents of the House rules (if any) to the SDA resident—
 - i. in the language, mode of communication and terms that the SDA resident is most likely to understand; and
 - ii. must give the SDA resident an explanation of the House rules both orally and in writing, where reasonable to do so.
- (c) The SDA provider may vary any House rules from time to time.
- (d) Where an SDA provider varies House rules, the varied House rules must clearly state the date on which they are to come into effect and on which they will replace the existing House rules.
- (e) If the SDA provider varies the House rules, they must—
 - (i) at least 14 days before the varied House rules are to come into effect, give a written copy of the varied House rules to the SDA resident and to any person providing support to the SDA resident listed in this agreement; and
 - (ii) must explain the contents of the varied house to the SDA resident:
 - a. in the language, mode of communication and terms that the SDA resident is most likely to understand; and
 - b. must give the SDA resident an explanation of the varied House rules both orally and in writing, where reasonable to do so.

12. Duties of SDA resident

The SDA resident must—

- (a) maintain the SDA enrolled dwelling in a manner that does not create a fire, health or safety hazard; and
- (b) after becoming aware of any damage to the SDA enrolled dwelling, give notice to the SDA provider specifying the nature of the damage; and
- (c) contribute to the cost of repairing damage notified under paragraph (b) to the SDA provider that the SDA resident caused; and
- (d) pay the rent on the due date and in the manner specified in this Agreement; and
- (e) not use the SDA enrolled dwelling for a purpose that is illegal at common law or under an Act; and
- (f) not by act or omission endanger the safety of other SDA residents or staff at the SDA enrolled dwelling; and
- (g) not cause serious disruption to the proper use and enjoyment of the SDA enrolled dwelling by other SDA residents; and
- (h) not damage or destroy any part of the SDA enrolled dwelling; and
- (i) not install any fixtures in the SDA enrolled dwelling without first obtaining the consent in writing of the SDA provider; and
- (j) not keep a pet without obtaining the consent of the SDA provider and any other SDA residents living in the dwelling.

13. Entry to the room or dwelling

- (1) The SDA provider must not enter the room or the SDA enrolled dwelling excepting as provided in this clause.
- (2) The SDA resident agrees that the SDA provider can enter the room or SDA enrolled dwelling in accordance with this clause.

(3) Entry without notice

The SDA provider can enter the SDA enrolled dwelling and any room without giving prior notice to the SDA resident in the following circumstances:

- (a) the resident agrees to let the SDA provider enter the SDA enrolled dwelling or room;
- (b) there is an emergency;
- (c) the SDA provider believes on reasonable grounds that they need to enter the SDA enrolled dwelling or room to protect the health or safety of the SDA resident or any other person in the SDA enrolled dwelling or room;
- (d) the SDA provider believes on reasonable grounds that the SDA resident has abandoned the SDA enrolled dwelling or room;
- (e) the SDA provider needs to enter the SDA enrolled dwelling or room to undertake urgent repairs.

(4) Entry with notice

The SDA provider can enter the SDA enrolled dwelling or room (together with any other persons they need to assist them in carrying out the reasons for entering the SDA enrolled dwelling or room) at any time between 8.00 am and 6.00 pm on any day other than a public holiday:

- (a) if they have given written notice to the SDA resident or SDA residents before the entry; and
- (b) only for one of the following reasons:
 - (i) to show the SDA enrolled dwelling or a room to a person who wishes to become an SDA resident or tenant, but only if the SDA provider has given 48 hours' notice of entry and:
 - A. before the SDA provider served the written notice, the SDA provider has given a notice to vacate to the SDA resident of that room or SDA enrolled dwelling, or
 - B. the SDA resident has given the SDA provider a notice of intention to vacate the room or SDA enrolled dwelling;

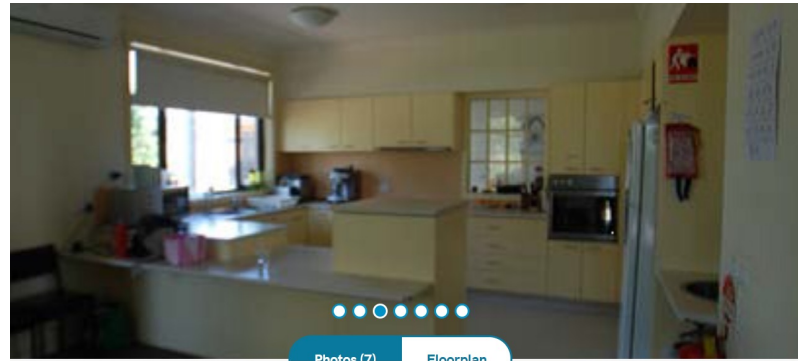
Space occupied varies, and may be limited by type of SDA funding through NDIS

Note: these are examples only, selected at random off the Housing Hub at time of preparing presentation

New individual apartment



Old style group homes with multiple residents



Rent - reasonable rent contribution*

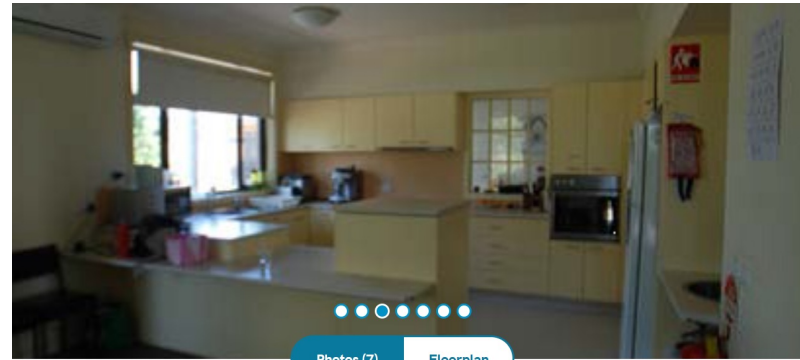
Pension rates per fortnight	Rate	Proportion charged	Cost
Maximum basic rate	\$1,002.50	25%	\$250.63
Maximum Pension Supplement	\$80.10	25%	\$20.03
Energy Supplement	\$14.10	25%	\$3.53
Rent assistance	\$184.80	100%	\$184.80
			\$458.98
Weekly amount			\$229.49

Rent - is it reasonable?

\$229.49 for single occupancy



\$229.49 for shared occupancy



What do you get for that amount?

Single occupancy

- ▶ Brand new apartment in Brunswick - one bedroom and one bathroom
- Electric oven and induction cooktop, double drawer dishwasher
- One efficient hydronic heating wall panel plumbed into building heating system
- Ceiling fans to living and bedroom
- All residents have 24 hour access to the shared laundry room and drying space on the rooftop. The drying space is partially covered
- There is a shared bathhouse and tool shed on the rooftop, accessible to all residents
- A guesthouse is available for visiting family and friends to rent at discounted rates

Group home

- ▶ Five bedroom, four bathroom, four other residents plus staff
- ▶ Thornbury location, three other houses on the property
- ▶ Two shared living areas
- ▶ Current residents are men, aged in their 20s to 50s.
- It is surrounded by gardens with a large BBQ area offering a perfect setting for family and friends.
- A partnership between Yooralla and Global Gardens of Peace, the unique 'Food Forest' is a beautiful oasis that enhances the health and wellbeing of the residents.
- The vacant bedrooms have separate split system heating and cooling for customisable room temperature. Televisions are also fitted to each bedroom.
- The bedrooms feature built in wardrobes.

Compared to market?

1 br apartment in Brunswick
- quite new

- ▶ \$400-550 pw
- ▶ SDA tenant paying \$229.49

5 br house in Thornbury -
reasonable condition

- ▶ \$800-\$1,200 per week
- ▶ Shared by 5
- ▶ \$160-\$240 pw each
- ▶ SDA tenant paying \$229.49

Is it reasonable?

- ▶ Unclear - not tested!

Bond

- ▶ No provision for the payment of a bond for SDA
- ▶ If your client has paid a bond, they are likely not living in SDA
- ▶ Or it needs to be refunded

Board?

SDA pricing arrangements state:

- ▶ Must not exceed 50% DSP + 100% energy supplement
- ▶ Must include meals and consumables, utilities, whitegoods, furniture and fittings in common areas
- ▶ Provider must allow participant to obtain these items from another source if they choose to
- ▶ Provider must not disadvantage participant if they choose to do this

2. WHAT RIGHTS DO RESIDENTS HAVE?

Residential Tenancies Act

- ▶ Request a pet
- ▶ Privacy
- ▶ Quiet Enjoyment
- ▶ Community visitors

NDIS provider

- ▶ Choice and control over SIL provider
- ▶ SDA complies with standards
- ▶ Respect for rights to freedom of expression, decision making etc
- ▶ Privacy

Responsibilities of residents

- ▶ Pay rent on time
- ▶ Don't use the SDA for an illegal purpose
- ▶ Don't damage or destroy, or endanger other residents or staff
- ▶ Don't create fire, health or safety hazards
- ▶ No pets without permission
- ▶ Permit SDA provider to enter premises for certain purposes eg inspection, maintenance etc)

3. WHAT RESPONSIBILITIES DO PROVIDERS HAVE?

- ▶ Not use information provided by applicant for other purposes (onselling other services?)
- ▶ Notify resident if the SDA is to be sold and other relevant information
- ▶ Not engage in misleading or deceptive conduct
- ▶ Treat residents with dignity and respect their privacy; entry to dwelling by consent and for specific purposes
- ▶ Keep SDA in good repair, including fixtures
- ▶ Reasonable security measures
- ▶ Not unreasonably refuse a request for a pet
- ▶ At least 60 days notice of intent to increase rent
- ▶ Not require rent paid more than 30 days in advance

Other Provider Duties

- ▶ Don't charge a bond
- ▶ Don't ask the resident for a guarantee about their duties
- ▶ Don't charge for various other dodgy things! (see 498ZL if you're curious)
- ▶ Arrange initial utility connection, and not overcharge the resident for utilities

Relationship to services

- ▶ Conflict of interest
 - ▶ Landlord or support?
 - ▶ Privacy!
 - ▶ Next slide will go through an example based on the RTA
- ▶ Act with integrity, honest and transparency (NDIS code of conduct, or you know, just being fair!)
- ▶ Power imbalance
- ▶ Historical practices and assumptions

Section 498ZP Breach of duty notice

An SDA resident does not breach a duty provision if any of the following have significantly contributed to the breach of the duty provision—

- (e) the act or omission of a person who is not the SDA resident;
- (f) any behaviour arising from the SDA resident's disability including circumstances aggravating to the SDA resident's disability or emotional wellbeing;
- (g) a failure by a person to implement or comply with the SDA resident's support plan or NDIS behaviour support plan;
- (h) the unauthorised use of a restrictive practice within the meaning of the Disability Act 2006 ;
- (i) circumstances suggesting that the SDA resident has been subjected to abuse or neglect.

Some examples out of the SDA Design Standards

- ▶ Must have a bedroom for exclusive use of resident, and it must:
 - ▶ Be at least 3.1m x 3.1 m from wall to wall
 - ▶ Have a wardrobe at least 1.4 m wide (clear of bedroom size)
- ▶ At entry level (or by lift) must have a bathroom with toilet, shower and hand basin
- ▶ Kitchen must have a cooktop with a rangehood, an inbuilt oven, sink with tap and a dishwasher
- ▶ Lockable windows
- ▶ A covered roof over the entire landing area at main entrance

** These are improved liveability - robust, fully accessible and high physical support have additional requirements

4. HOW ARE DISPUTES DEALT WITH?

Issue	Forum	Why?
Excessive rent	1. Consumer Affairs - to investigate 2. VCAT for order	RTA
Excessive board	1. Consumer Affairs can investigate	RTA
	2. NDIS Quality and Safeguards Commission	SDA pricing arrangements
Notice to Vacate	VCAT	RTA
Breach of privacy	1. Breach of duty notice, then VCAT (application for compensation or compliance order)	RTA
	2. NDIS Quality and Safeguards Commission	Code of conduct

5. CAN THE PROVIDER EVICT YOUR CLIENT?

- ▶ There are multiple steps, and in most cases the provider has not carried any of them out!
- ▶ A conversation, suggestion, meeting or letter are not any of those steps
- ▶ All tenancies have processes around this, but we will quickly go through the SDA ones today

Depending on the reason, most or all of these steps will be required

Breach notice



Notice of temporary relocation



Notice to Vacate

- Resident can apply to VCAT at this stage
- 

Application for Possession Order

- This needs to be decided by VCAT, resident can make their case at this stage as well

Temporary relocation

- ▶ “Endangers safety” and a range of other resident related reasons
 - ▶ SDA no longer being provided
 - ▶ Repairs, renovation etc

 - ▶ Can be immediate
 - ▶ Cannot be for longer than 90 days (or as long as works take to complete)
 - ▶ A range of notification requirements (OPA, NDIA, SIL provider)
- ▶ Relocated to suitable accommodation by SDA provider
 - ▶ SDA provider cannot move another tenant in except for
 - ▶ Emergency purposes
 - ▶ STA

 - ▶ At end of notice period, resident came move back in, unless a notice to vacate has been issued
 - ▶ SDA provider must be taking reasonable steps to resolve the issue

Notice to vacate

- ▶ Tenant owes 14 days (or more) rent
- ▶ Endangers safety, serious disruption etc
- ▶ Repair, renovate, reconstruct dwelling
- ▶ Will no longer be an SDA

Owes rent

Must have

- ▶ Issued a breach notice about the unpaid rent

Resident response

- ▶ Did not pay the rent within 14 days of receiving breach notice

Resident endangers safety, serious disruption, damage property etc

Must have

- ▶ Issued a notice of temporary relocation on same grounds
- ▶ Temporary relocation notice must be at least 24 hours prior
- ▶ A reasonable belief the conduct will continue to occur

Must not

- ▶ Property damage cannot be just wear and tear, or accidental damage
- ▶ Issues must be due to the resident, not somebody else
- ▶ Be a behaviour related to their disability
- ▶ Be a result of a failure to implement BSP
- ▶ Be related to unauthorised restrictive practices, abuse or neglect

Notice requirements

- ▶ Must specify the grounds for the notice
- ▶ Must advise that the resident can apply to VCAT within 90 days for a review of the notice
- ▶ Must have a termination date at least 90 days away
- ▶ Must be signed by SDA provider and given to the resident and (if applicable) their guardian or administrator
- ▶ If notice of temporary relocation in place, must continue to provide alternative accommodation
- ▶ **MOST IMPORTANTLY, THE NOTICE MUST PROVIDE ENOUGH EVIDENCE THAT WHAT THEY ARE CLAIMING HAPPENED!**

When a notice to vacate is issued, there are two choices

Challenge it

- ▶ This stops the clock
- ▶ Once an application is made to VCAT to review the notice to vacate, the provider can't take action until VCAT makes a decision
- ▶ That requires an initial hearing (if the notice was complete rubbish it will be thrown out) and possibly a full hearing with evidence etc
- ▶ This gives the resident time to work out a plan. Maybe they want to stay, maybe they don't, but they have time to figure it out now. Probably 1-3 months at least

Ignore it

- ▶ The notice to vacate is not enough for the provider to evict the resident, they still need a possession order
- ▶ If they don't do this in the required timeframes (not more than 30 days after the resident was required to vacate) they have to start over again
- ▶ Most providers don't understand this and just scare the resident into leaving
- ▶ Even if they apply for a possession order, this has to be decided by VCAT, and the resident can make their case as to why they should not be evicted

6. WHO CAN HELP?

Victoria Legal Aid

Tel: 1300 792 387

Legal Help Chat: [Contact us | Victoria Legal Aid](#)

- ▶ Duty lawyer representation where upcoming eviction hearing
- ▶ Legal assistance where notice to vacate issued making allegations around the conduct of the resident (other than rent arrears)

Villamanta Disability Rights Legal Service Inc

Tel: 1800 014 111

Email: legal@villamanta.org.au

- ▶ ½ hour advice appointments for individuals with disability in SDA/SRS
- ▶ Can provide general advice call for advocates
- ▶ Representation where notice to vacate issued

6. WHO CAN HELP (cont)

Community Visitors, Office of the Public Advocate

- ▶ *Community Visitors are volunteers who make regular visits to disability accommodation, Supported Residential Services and public mental health units across Victoria.*
- ▶ *Community Visitors have significant powers of entry and can make a broad range of inquiries under legislation. They monitor and report on the adequacy of services provided to ensure people are treated with dignity and respect and are safeguarded against abuse, neglect, violence and exploitation. They visit unannounced and write a brief report at the conclusion of the visit detailing who they have spoken to, what documents they have looked at, issues of concern, as well as good practice they have observed.*
- ▶ *Any member of the public can make a request for a visit if they have concerns about a person with disability or mental health issues living in a visitable property by contacting the Office of the Public Advocate's Advice Service on 1300 309 337. Callers can remain anonymous. For more information about Community Visitors go to: [Community Visitors - Office of the Public Advocate](#)*

Mental Health Legal Centre

- ▶ Have been doing a significant project around SRS issues
- ▶ Contact them for more info or to report issues confidentially
- ▶ [MHLC - Mental Health Legal Centre - Providing free legal services to Victorian mental health consumers](#)

6. WHO CAN HELP? (cont)

Tenants Victoria

- ▶ Worker advice line can give you advice about tenancy rights for your client
- ▶ [For organisations - Tenants Victoria](#)

AMIDA

Housing Rights Education Sessions for people with disabilities (especially intellectual disabilities or learning difficulties) and/or staff are available from AMIDA. Housing and tenancy rights information is presented using varied formats including VIDEOS and GRAPHICS.

People with disabilities conduct most sessions.

Participants receive posters, information booklets and keyrings.

There are six education sessions to choose from:

- ▶ Are You A Tenant?
- ▶ Private Rental
- ▶ Public Housing
- ▶ Government Run Group Homes
- ▶ Non Government Run Group Homes
- ▶ Supported Residential Services

Please contact AMIDA, 9650 2722, Monday, Tuesday and Thursday, 9.15am – 5.15pm to find out more, or to book sessions.

6. WHO CAN HELP? (cont)

Consumer Affairs

- ▶ Advice line can assist with general queries about SDA
- ▶ [Specialist disability accommodation \(SDA\) - Consumer Affairs Victoria](#)

NDIS Quality and Safeguards Commission

- ▶ Complaints about NDIS registered providers
- ▶ Will require follow up
- ▶ Seek escalation if the matter is urgent

A residential rental agreement looks like this

Residential rental agreement no more than 5 years



Residential Tenancies Act 1997 Section 26(1)

Residential Tenancies Regulations 2021 Regulation 10(1)

- This is your residential rental agreement. It is a binding contract under the **Residential Tenancies Act 1997** (the Act).
- Parts A, B, C and E are the terms of your agreement. Part D is a summary of your rights and obligations.
- Do not sign this agreement if there is anything in it that you do not understand.
- Please refer to [Renters Guide](#) for details about your rights and responsibility.
- For further information, visit the renting section of the Consumer Affairs Victoria (CAV) website at www.consumer.vic.gov.au/renting or call 1300 558 181.

Part A – Basic terms

This agreement is between the residential rental provider (rental provider) and the renter(s) listed on this form.

1 Date of agreement

This is the date the agreement is signed.

If the agreement is signed by the parties on different days, the date of the agreement is the date the last person signs the agreement.

2 Premises let by the rental provider

Address of premises

3 Rental provider details

Full name(s) or

Company name

ACN (if applicable)

(Please fill out details below where no agent is acting for the rental provider)

Address

Phone number

4 Renter details

Each renter that is a party to the agreement must provide their details here.

Full name of **renter 1**

Current address

Phone number

Email address

Full name of **renter 2**

Current address

Phone number

Email address

Full name of **renter 3**

Current address

Phone number

Email address

Full name of **renter 4**

Current address

Phone number

Email address

Note: If there are more than four renters, include details on an extra page.

5 Length of the agreement

Fixed term agreement

Start date

(this is the date the agreement starts and you may move in)

End date

Periodic agreement (monthly)

Start date

Note: A periodic (e.g. month by month) rental agreement will be formed at the end of the fixed term agreement if the

An SDA residency agreement looks like this

SDA residency agreement

This Agreement is made on:

Date: / /

At:

.....
[insert place of Agreement]

Parties

Between (SDA provider):
[insert name, ACN if SDA provider is a company, address]

Whose Agent is:
[insert name, address, ACN if company, of the agent]

And (SDA resident):
[insert name]

Details of person providing support to the resident:
[Insert name, address, and whether person is the SDA resident's guardian or SDA resident's administrator, family member, friend or carer; or if no person is chosen by the SDA resident, a person who the SDA provider considers can assist the SDA resident (and is not employed by, or is not a representative of, the SDA provider)]

This Agreement is made by:

- A. The SDA provider and SDA resident entering into the Agreement and both signing the Agreement.
or
- B. The SDA provider working with the SDA resident to establish the Agreement, and the SDA provider signing and dating the Agreement.

1. Contact details

- (a) The SDA provider and SDA resident have inserted their contact details in Attachment 1 to this Agreement.
- (b) The SDA provider must attach a copy of Attachment 1 with updated contact details to this Agreement and give a copy to the SDA resident within 5 business days of any change in the contact details of the SDA provider or their agent.

2. Room and furniture in SDA enrolled dwelling

SDA enrolled dwelling
[insert address of the SDA enrolled dwelling]

- A. The SDA resident is the only resident in the SDA enrolled dwelling
[if there are other residents, strike out A and complete the information about the room in B]

Or

3. Length and extension of this agreement

- (a) This Agreement starts on
[insert date (dd/mm/yyyy)]

and runs for a period of
[insert period]

until it ends on
[insert date (dd/mm/yyyy)] (the end date).
- (b) Unless this Agreement is terminated in accordance with Part 12A of the *Residential Tenancies Act 1997*, it is taken to have been automatically extended from the end date for the same period, and it will continue to be automatically extended any number of times until terminated.

4. Terminating this agreement

This Agreement can only be terminated in accordance with Part 12A of the *Residential Tenancies Act 1997*.

Note
See the Information statement for further information.

5. Rent

The SDA resident must pay rent to the SDA provider at the times and in the manner set out below. If this clause has been struck out, it must be paid at the times and in the manner set out in Attachment 3 to this Agreement.

The total rent is: \$

Commonwealth rental assistance: \$

SDA resident's Reasonable Rent Contribution: \$

The rent is paid

[tick one box and circle the day, or insert the day or date of each month]

- each week on Monday / Tuesday / Wednesday / Thursday / Friday
- each fortnight on the first Monday / Tuesday / Wednesday / Thursday / Friday of the fortnight
- each month

[insert day or date of payment (dd/mm/yyyy)]

The rent is paid by:

Centrepay	\$
Cash	\$
Cheque	\$

An SRS agreement looks like this

NAME OF SUPPORTED RESIDENTIAL SERVICE

ADDRESS * AND * PHONE NUMBER

Registered Beds: XX

Proprietor: XXXXXX
Telephone: XXXXXX

Manager: XXXXXX
Telephone: XXXXXX

You must include the proprietor and the manager's contact details.

RESIDENTIAL AND SERVICES AGREEMENT

This is an agreement between a resident and the proprietor of this SRS regarding the terms and condition of your stay in the SRS. This SRS is regulated by the Department of Health and Human Services. We deliver services in a way that is consistent with the principles and standards set out in the *Supported Residential Services (Private Proprietors) Act 2010* and *Supported Residential Services (Private Proprietors) Regulations 2012*.

RESIDENT DETAILS	
Name of Resident	
Room Number	

Resident's Guardian	Telephone	Address (postal and/or email)

A resident may nominate a person to receive information about the resident's accommodation and personal support received at the SRS.		
Person Nominated	Telephone	Address (postal and/or email)

DURATION OF STAY	
Your stay is for a fixed period	Starting on __/__/__ and ending on __/__/__
Your stay is for an indefinite period	Starting on __/__/__

FEES AND CHARGES	
Fee for accommodation and personal support	Amount: \$
Frequency of payment	<input type="checkbox"/> Each week in advance <input type="checkbox"/> Every fortnight in advance <input type="checkbox"/> Every 4 weeks/ Each calendar month in advance <input type="checkbox"/> Other _____
How to pay	<input type="checkbox"/> Direct Debit <input type="checkbox"/> Cash <input type="checkbox"/> State Trustees <input type="checkbox"/> Other _____

OTHER FEES AND CHARGES	
Security Deposit Charged	<input type="checkbox"/> No <input type="checkbox"/> Yes Amount payable: \$
<i>Terms and conditions of refund of security deposit must be included.</i>	

OTHER FEES AND CHARGES	
Condition Report Provided to Resident	<input type="checkbox"/> YES <input type="checkbox"/> NO <i>A condition report must be provided if the resident is charged a security deposit. It should be provided as a separate attachment to the RSA.</i>
Furniture in resident's room belonging to the SRS	List items:

Different forms of tenancy for people with disability in Victoria

	Residential Tenancy	Specialist Disability Accommodation (SDA)	Supported Residential Services (SRS)
Legislation	Residential Tenancies Act 1997	Residential Tenancies Act 1997	Supported Residential Services (Private Proprietors) Act 2010
Relationship to services	None	Should be none	Some services included in residential charge
Space occupied	Exclusive possession	A room and shared common areas, may be exclusive possession of whole premises if single occupant.	A room (may be shared) and common areas. Up to 80 residents.
Rent	Market based	Reasonable Rent Contribution	Pension-level facilities charge 85-95% of pension for room, meals and support. Pension-plus facilities set their own fees.
Bond	Yes, cannot exceed one month's rent Condition report required and disputes can be heard by VCAT	No Bond	Security Deposit (cannot be more than 1 month's fees), condition report required and disputes can be heard by VCAT Establishment and reservation fees can also be charged
Rights	<ul style="list-style-type: none"> Request pet Privacy Quiet Enjoyment 	<ul style="list-style-type: none"> Request pet Privacy Quiet Enjoyment 	<ul style="list-style-type: none"> Privacy Fair and equal treatment Independence Dignity and respect Freedom from abuse, neglect, and exploitation Right to choose service provider
Duties – Provider	<ul style="list-style-type: none"> Comply with minimum standards Provide summary of rights and duties Quiet Enjoyment Premises in good repair Locks 	<ul style="list-style-type: none"> Resident treated with dignity, respect and Security Minimise disruptions Renovate in timely manner 	<ul style="list-style-type: none"> Detailed information statement, and a residential <u>and</u> services agreement Have in place support plans and comply with support standards Monitor healthcare and personal support issues Provide adequate and qualified staffing Keep records Safe and comfortable surroundings

Different forms of tenancy for people with disability in Victoria

	Residential Tenancy	Specialist Disability Accommodation (SDA)	Supported Residential Services (SRS)
Duties – Renter/ Resident	<ul style="list-style-type: none"> Nuisance or interference / endanger neighbours / illegal use No damage Leave reasonably clean No modifications without consent 	<ul style="list-style-type: none"> No fire, health or safety hazards. Contribute repair costs Pay rent on due date <p>Resident must not:</p> <ul style="list-style-type: none"> Use SDA for illegal purpose Endanger safety of residents or staff Cause serious disruption Install fixtures without consent 	<ul style="list-style-type: none"> Same as 'other members of the community' Agreed in Residential and Services Agreement but not inconsistent with Act
Complaints/ Disputes	<ul style="list-style-type: none"> Residential provider VCAT 	<ul style="list-style-type: none"> Residential provider (including DFFH) VCAT NDIS Q&S Commission 	<ul style="list-style-type: none"> SRS Owner or SRS Complaints Officer Human Services Regulator VCAT
Notice – tenant leaving	<p>Notice of Intention to Vacate - More than 28 days</p> <p>By agreement of parties</p>	<p>Notice of intention to vacate but vacate date can be on the day it is given.</p>	<p>Notice of Intention to Vacate:</p> <ul style="list-style-type: none"> Not less than 2 days Not more than 28 days
Eviction – landlord terminating	<p><u>Notice to Vacate</u></p> <ul style="list-style-type: none"> Damage Danger No payment of rent (3 or 4 rent cycles) Illegal purpose Sub-letting Repairs Demolition Turned into business Selling <p><u>Possession Order - VCAT</u></p> <ul style="list-style-type: none"> Provider must show entitled to issue the NTV for the reason specified Possession date not longer than 30 days after order was made Warrant to be executed by police Reasonable and proportionate test applies 	<p><u>Notice to Vacate:</u></p> <ul style="list-style-type: none"> At least 14 days unpaid rent (and breach notice has been issued) Endangers another resident Causes serious disruption/damage Resident danger to themselves No longer be appropriately supported Illegal purpose. Rental provider intends to renovate, reconstruct or demolish SDA is to be sold <p><u>Notices of temporary relocation</u></p> <p>A notice of temporary relocation can be issued for any of the reasons specified in bold above, in addition to the following reasons:</p>	<p><u>Notice to Vacate</u></p> <ul style="list-style-type: none"> Endangers safety of others Causes serious damage Interrupts enjoyment Illegal Purpose SRS closing Undertake major repairs SRS cannot provide adequate health care or support Fees 14 days overdue <p>-Must specify the “ground” on which the NTV is given and that resident may appeal to VCAT</p> <p>-Where the NTV is given for one the reasons in bold above, must also be given to the Secretary.</p> <p><u>Order to Vacate - VCAT</u></p> <ul style="list-style-type: none"> Provider must show entitled to issue the NTV for the reason specified Order to vacate date not longer than 30 days after order was made Warrant to be executed by police

Different forms of tenancy for people with disability in Victoria

	Residential Tenancy	Specialist Disability Accommodation (SDA)	Supported Residential Services (SRS)
		<ul style="list-style-type: none"> The premises are no longer suitable for use as an SDA dwelling For the safety or wellbeing of the resident <p>They are immediate, and can be up to 90 days. The SDA provider must find the resident alternative accommodation for the duration. There are circumstances where they cannot be issued.</p> <p>At the end of the period resident can return unless an NTV has been given.</p> <p><u>Possession Order - VCAT</u></p> <ul style="list-style-type: none"> Provider must show entitled to issue the NTV for the reason specified Possession date not longer than 30 days after order was made Warrant to be executed by police Reasonable and proportionate test applies 	<ul style="list-style-type: none"> No reasonable and proportionate test
Standards	Minimum Rental Standards	SDA Design Standards	Accommodation and personal support standards
Community visitors	Not permitted (unless its residential rental agreement in an SDA dwelling)	Yes, at any time. Residential tenancy agreement can disallow.	Yes, at any time
Registration	None	Must be NDIS registered SDA. You can see vacancies only on SDA finder NDIS	Must be registered to operate – you can see registered operators at DFFH register online