



Villamanta
DISABILITY RIGHTS LEGAL SERVICE

Submission to the
Department of Health, Disability and Ageing

**“Supported Independent Living (SIL): What
does good look like?”: Public consultation to
help inform a possible ‘commissioning’
approach for part of the SIL market**

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Commissioning Needs Stronger Justification

Villamanta welcomes the opportunity to provide feedback on the Department's consultation regarding a possible commissioning approach for Supported Independent Living (**SIL**).

Through our legal service, we regularly assist people living in SIL arrangements throughout Victoria. We hear firsthand accounts of abuse, neglect, restrictive and controlling practices, inadequate supports, provider conflicts of interest, barriers to making complaints, and other concerns regarding service quality and participant safety.

The consultation paper suggests that commissioning may improve quality, innovation, sustainability and participant outcomes. However, Villamanta is concerned that the paper has not clearly established why SIL commissioning is necessary, or why the stated objectives cannot be achieved through strengthening existing market stewardship, regulatory oversight and safeguarding mechanisms.

Villamanta is not persuaded that a new SIL commissioning framework is the most effective response to the challenges identified. The consultation paper does not provide a sufficient evidence base demonstrating that commissioning will deliver better outcomes for participants compared to alternative approaches.

Notably, neither the Disability Royal Commission or NDIS Review 2023 specifically recommended the introduction of SIL commissioning. Many of the concerns raised through government reviews, stakeholder consultations and participant experiences point to shortcomings in implementation, oversight, monitoring, compliance and enforcement rather than an absence of regulatory powers.

Before introducing an additional layer of market intervention, Government should first examine whether the intended outcomes of commissioning could be realised through a more effective and adequately resourced NDIS Quality and Safeguards Commission (**NDIS Commission**) to strengthen its capacity, responsiveness and regulatory effectiveness to benefit the entire SIL market, rather than creating a separate commissioning framework for a subset of providers and participants.

NEED FOR CLEARER JUSTIFICATION

The consultation paper identifies quality, safeguards, innovation, choice and sustainability as key concerns within the SIL market. Villamanta agrees that these issues exist and require ongoing attention.

However, many of the problems experienced by people living in SIL are already within the jurisdiction of the NDIS Commission. They include:

- failures to uphold participant rights;
- poor quality service delivery;
- unsafe support practices;
- failures to respond appropriately to complaints;
- restrictive practices;
- provider conflicts of interest;
- inadequate incident reporting;
- workforce competency concerns; and
- systemic neglect.

In Villamanta's experience, and informed by the experiences of the people and communities we work alongside, participants often report that concerns persist for extended periods without effective regulatory intervention or resolution.

This raises an important policy question, if the existing regulator is responsible for monitoring and enforcing quality and safeguards, why establish an additional commissioning framework before addressing the shortcomings of the current system?

Without greater clarity, there is a risk that commissioning may:

- Duplicate existing regulatory functions.
- Create uncertainty regarding accountability and oversight.
- Result in different levels of protection and rights between participants subject to commissioning arrangements and those who are not.
- Reduce participant choice and control if access becomes concentrated among a limited group of commissioned providers.

Commissioning should not be viewed as a substitute for effective regulation.

The Government should clearly articulate how SIL commissioning would achieve better outcomes than strengthening existing regulatory and market stewardship mechanisms. In particular, the Government should explain:

- What specific problems commissioning is intended to solve that cannot be addressed through improvements to existing systems.
- Why current regulatory arrangements have been insufficient.
- What evidence demonstrates that commissioning will improve participant outcomes.
- How commissioning will strengthen, rather than diminish, participant choice and control.
- How duplication, complexity and fragmented accountability will be avoided.

STRENGTHENING EXISTING REGULATORY CAPACITY

Before introducing a commissioning model, Government should prioritise investment in the NDIS Commissions' regulatory enforcement, proactive monitoring, participant safeguards and quality improvement initiatives.

This could include:

- Strengthening the NDIS Commission's capacity to proactively monitor quality outcomes in SIL settings.
- Increasing the use of proactive inspections, audits and monitoring activities.
- Ensuring continued access to funded independent advocacy and legal services for people living in SIL.
- Strengthening the use of existing investigation and enforcement powers available to the NDIS Commission.
- Investing in evidence-based quality improvement initiatives across the SIL sector.
- Supporting workforce capability, training and professional development to improve service quality and participant outcomes.

COMMUNITY-LED AND CULTURALLY RESPONSIVE APPROACHES

Where Government considers targeted commissioning necessary, particularly in thin markets or to meet the needs of specific cultural, First Nations, regional or diverse communities, any commissioning approach should be community-led and designed in partnership with the people it is intended to support.

Communities are best placed to identify local needs, understand cultural considerations and determine what quality and effective supports look like in practice. A centrally designed commissioning model risks overlooking important local knowledge, community relationships and culturally safe approaches to service delivery.

A community-led approach is more likely to build trust, improve innovation, service responsiveness and ensure that any commissioning arrangements reflect the priorities and lived experiences of the people they are intended to serve.

About Villamanta Disability Rights Legal Service Inc.

Villamanta Disability Rights Legal Service Inc. (**Villamanta**) has been providing Victorian statewide advocacy and legal services to people with disability since 1990.

We want an equal Victorian community for people with disability. We promote laws and systems that protect human rights. We work alongside people with disability to advocate on legal problems.

We want to see these outcomes.

- More people with disability, especially those with cognitive impairment, get legal advocacy.
- People with disability feel more confident to self-advocate.
- Legal services get better at being easy to use.
- Laws and systems do a better job at making the community equal for people with disability.

We are funded to provide advocacy under the National Disability Advocacy Program, NDIS Appeals, the Victorian Legal Services Board and Commissioner and the National Legal Assistance Partnership Agreement.