

The separation of Specialist Disability Accommodation (SDA) and Supported Independent Living (SIL)

National Disability Services Limited (NDS) believes that the information contained in this presentation is correct at the time of publishing, May 2020. NDS reserves the right to vary any of the content without further notice. The information provided in this presentation should not be relied on instead of other legal, medical, financial or professional advice.

This resource was developed with thanks to the Victorian Government and is tailored to the Victorian operating environment.



Discussion points:

- Participant choice and control
- Why separate SDA and SIL
- Legislative changes in Victoria
- Comparing lease types
- Activities SDA providers are responsible for
- The role of the SDA provider – Collaboration agreement
- The role of the SIL provider – Collaboration agreement

Participant choice and control

- NDIS participants have choice and control over the supports and services they receive
- NDIS participants can choose which SIL provider they wish to engage
- The participant may have more than one SIL provider
- When a participant chooses to self-manage or plan-manage their NDIS funds, they may choose to receive support and services from NDIS registered providers or unregistered providers of NDIS supports
- Depending on the support provided, the participant may choose to receive SIL from an unregistered SIL provider
- “Each participant’s right to exercise choice and control over other NDIS support provision is not limited by their choice of specialist disability accommodation dwelling” NDIS Practice Standards

The separation of SDA and SIL under the NDIS

SDA – the delivery of accommodation and associated tenancy support

- Obligations beyond those of a usual landlord
- Is a funded NDIS support and assumes the provider has a strong relationship with participants
- The owner of the SDA does not need to be the SDA provider
- Must have a complaints management and resolution system that meets the requirements of the NDIS (Complaints Management and Resolution) Rules 2018
- Must have an incident management system is maintained in accordance with the NDIS (Incident Management and Reportable Incidents) Rules 2018

SIL – the delivery of daily personalized support in a participant's home (SDA or non-SDA)

The separation of SDA and SIL under the NDIS

Why separate SDA and SIL?

- Choice
- Accountability
- Clarity
- Specialization

One organization can deliver both SDA and SIL and will be required to demonstrate how this this separated, having clear and stringent conflict of interest policies and practices in place.

[Parliament of Australia website](#) for Joint Standing Committees Enquiry into SIL document

Legislative changes in Victoria

- SDA was removed from the Disability Act 2006 and included in the Residential Tenancies Act under Part 12 A, all properties gazetted from the Disability Act on Jan 1 2020
- In response to a number of issues with this process DHHS sought the re-gazettal of properties back under the Disability Act which occurred automatically for all previously gazetted properties – existing residential statements remain valid

The current operating environment:

1. SDA provider with dwelling gazetted under Disability Act and with residential statement
2. SDA provider with dwelling operating under the RTA with Part 2 standard agreement
3. SDA provider with dwelling operating under the RTA with Part 12 A SDA agreement

SDA residency agreement Part 12 A		Residential tenancy agreement Part 2
SDA participants/Cos	Tenants	SDA and non-SDA participants
Yes – room numbers must be listed	Exclusive occupancy	No
Enter into (signed by resident) or establish (not signed by resident) individual agreements	Starting an agreement	Enter into single agreement with all tenants All tenants must be able to independently understand and sign
SDA residency agreement in the standard form as prescribed by the Regulations 2019 - Schedule 1 and also found on the CAV website	Agreement type	Part 2 residential tenancy agreement in the standard form as prescribed by the RTA and also found on the CAV website
SDA residency agreement information statement CAV website	Information statement	Part 2 residency agreement information statement CAV website
Yes	Notify CAV	No
No	Bond	Yes
Six monthly increase	Rent	Annual increase
The resident does not pay for damage to the property caused because of fair wear and tear, their disability or equipment they need to help them with their disability	Damage	The resident/s will have to pay for any damage they cause, except for fair wear and tear
The resident can end the agreement at any time	Ending an agreement	If it is a fixed-term agreement, the resident cannot end the agreement before the lease end date
You cannot ask a resident to leave the property without first finding them suitable temporary accommodation	Notice to vacate	You can serve a notice to vacate for the reasons outlined under Victorian rental laws
Community Visitors can visit at any time with or without notice	Community Visitor	Community Visitors can only visit where this has been requested
Part 12 A of the RTA	Relevant part RTA	Part 2 of the RTA & Division 2 of Part 12 A
NDIS Practice Standards SDA provider – SDA module SIL provider – Core module	NDIS Commission	NDIS Practice Standards SDA provider – SDA module SIL provider – Core module

Separation – three streams

1. SDA – accommodation

2. SIL – supports

3. Participant – everyday living expenses

- Food
- Utilities
- Internet
- Furniture
- Other 'board' – optional and must be at the choice of the participant

Board and lodgings does not exist under the NDIS and the RTA.

Activity	Residential Tenancies Act	NDIS Practice Standards	NDIS
Board			Out of pocket non-funded cost (choice)
Utilities	SDA agreement must specify how utilities will be paid		Method chosen by resident, out of pocket cost, SIL may be funded to support
Internet			Out of pocket non-funded cost (choice)
Annual dwelling attestation			SDA provider
Start an agreement/renew	SDA provider		
Create new agreement when room change	SDA provider (Part 12 A agreement)		
Rent	SDA provider		
Dwelling safety & evacuation procedures		SDA “The agreement includes information about dwelling safety features, including fire alarms and building evacuation procedures, and how this information will be communicated to other providers who deliver supported independent living to each participant in the dwelling” p. 40	
Manage vacancies		SDA “Policies and procedures are in place about how a provider will declare, advertise and fill vacancies in shared living, including how each participant’s views, preferences and needs are documented and taken into account. The policies are made available to participants in the language, mode of communication and terms which each participant is most likely to understand.” P. 41 (demonstrable indicator under tenancy management)	
		SIL & SDA: “In shared living, how vacancies will be filled including the participant’s right to have their needs, wishes, choices and situation taken into account” P. 14 & p. 41	
Find alternate accom with notice to vacate	SDA when Part 12 A (Effect of notice to vacate) Not a requirement under Part 2. CAV website You (the SDA provider) must find the resident somewhere suitable to live until: the vacate date on the notice, or the resident finds other specialist disability accommodation.	SDA “g) Arrangements for continuity of supports (including specialist disability accommodation) in the event of a natural disaster or other emergency” p. 41	
Make reasonable adjustments to accom	Duties of SDA provider Part 12A only (1) An SDA provider who provides an SDA enrolled dwelling must— (ca) install fixtures required by the SDA resident to assist their daily living or proper use and enjoyment of the SDA enrolled dwelling	SDA “Where a change in participant needs or circumstances occurs, reasonable adjustments are made to accommodate the changes.” p. 42	

Collaboration agreement – SDA and SIL

A collaboration agreement is between the SDA provider and the SIL provider and:

- It establishes a collaborative working relationship
- Is not a tenancy agreement
- Should not contract out any responsibilities of the SDA provider or the SIL provider
- Should be developed with consideration of
 - Part 12 A of the RTA when an SDA residential agreement is in place
 - Part 2 of the RTA when a standard residential agreement is in place
 - The NDIS Practice Standards (tenancy SDA module and core SIL module)
- Should be individualized (NDIS Practice Standards)

The role of the SDA provider – collaboration agreement

Documented arrangements are in place with each participant and each participant's other NDIS providers that deliver supported independent living supports within a specialist disability accommodation dwelling

- a) How the specialist disability accommodation provider will work with other providers who deliver supported independent living supports to ensure the shared living arrangement is working for all tenants
- b) How potential conflicts involving the participant will be managed
- c) Policies and procedures for responding to violence, abuse, exploitation or conflict involving one or more participant which may impact on the condition of the dwelling
- d) How each participant's concerns about the SDA dwelling will be communicated to and addressed by the specialist disability accommodation provider
- e) How behaviours of concern will be managed, if this a relevant issue for the participant
- f) How changes to a participant's circumstances or supports will be agreed and communicated
- g) Arrangements for continuity of supports (including specialist disability accommodation) in the event of a natural disaster or other emergency
- h) In shared living, how vacancies will be filled including the participant's right to have their needs, wishes, choices and situation taken into account.

The role of the SIL provider – collaboration agreement

Where the provider delivers supported independent living supports to participants in specialist disability accommodation dwellings, documented arrangements are in place with each participant and each specialist disability accommodation provider

- a) How a participant's concerns about the dwelling will be communicated and addressed
- b) How potential conflicts involving participant(s) will be managed
- c) How changes to participant circumstances and/or support needs will be agreed and communicated
- d) In shared living, how vacancies will be filled, including each participant's right to have their needs, preferences and situation taken into account
- e) How behaviours of concern which may put tenancies at risk will be managed, if this is a relevant issue for the participant.

Got a question? Ask now! [nds.org.au/helpdesk](https://www.nds.org.au/helpdesk)

For all of your questions

- NDIS
- SDA/SIL
- NDIS Quality and Safeguards
- www.nds.org.au/helpdesk



