



Royal Commission
into Violence, Abuse, Neglect and Exploitation
of People with Disability

Inclusive education, employment and housing

Part C



Final Report
Volume 7

September 2023

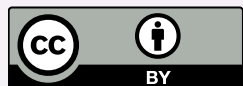
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Acknowledgement of Country

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Royal Commission) acknowledges Australia's First Nations peoples as the Traditional Custodians of the lands, seas and waters of Australia, and pays respect to all First Nations Elders past, present and emerging.

We recognise their care for people and country. In particular, we acknowledge the Traditional Custodians of the lands on which our offices are based: the Gadigal people of the Eora Nation where our Sydney office stands, the Jagera and Turrbal people as Traditional Owners and Custodians of the lands on which the city of Brisbane is located and the Ngunnawal and Ngambri peoples upon whose land the city of Canberra is located.

We pay our respects to all First Nations people with disability and recognise the distinct contributions they make to Australian life and to the outcome of this inquiry.

Acknowledgement of people with disability

The Royal Commission acknowledges people with disability who fought and campaigned long and hard for the establishment of this Royal Commission.

We acknowledge the courage and generosity of people with lived experience of disability who shared their knowledge and experiences of violence, abuse, neglect and exploitation with the Royal Commission. Their contributions to the Royal Commission have been indispensable in framing recommendations designed to achieve a more inclusive society that supports the independence of people with disability and their right to live free from violence, abuse, neglect and exploitation.

Content warnings

This report contains information about violence, abuse, neglect and exploitation that may be distressing to readers.

The report contains first-hand accounts of violence, abuse, neglect and exploitation. As a result, some direct quotes in the report may contain language that may be offensive to some people.

First Nations readers should be aware that some information in this report may have been provided by or refer to First Nations people who have passed away.

Final Report

Volume 7

Inclusive education, employment and housing

Part C

*Due to the size of this Volume, it has been broken into four parts. The Table of contents can be found in the *Summary and recommendations* part of this Volume.

8. Inclusive homes and living

Key points

- People with disability have a fundamental human right to live in suitable housing, and be connected to the community. They should be able to choose where they live, with whom they live, how they live, and who provides their support for daily living and community participation. Their home should provide safety and security, and be free from exposure to violence, abuse, neglect and exploitation.
- However, some people with disability face multiple barriers to securing housing that is accessible, secure, appropriate and safe. People with higher support needs currently have fewer options in relation to fully inclusive homes and living. They may be denied autonomy and choice over aspects of their daily life and have limited opportunities for meaningful participation in the community.
- Some people with disability may have little choice but to remain long term in substandard accommodation such as boarding houses, with limited occupancy rights and oversight. Some may experience chronic homelessness. People can be exposed to violence, abuse, neglect and exploitation in these institutionalised, unregulated or high-risk settings.
- In this chapter we recommend the following reforms to address these issues:
 - including people with disability in all key national housing and homelessness agreements and planning, including strategies, policies and action plans
 - increasing the supply of accessible and adaptive housing for people with disability through the National Construction Code
 - increasing access to social housing for people with disability by having inclusive policies for housing allocation, housing applications and building modifications
 - increasing tenancy and occupancy protections for people with disability by adopting and enhancing the best regulatory and legislative models available
 - improving regulatory oversight in supported accommodation settings by implementing minimum service and accommodation standards
 - improved responses to homelessness, including support during transitions and expanding models that provide pathways out of chronic homelessness.

8.1. Introduction

A person's home is the place where they should be safe, secure and able to choose how to live their daily life. A home is central to a person's dignity, autonomy, independence and wellbeing. It is also a fundamental human right. Articles 19 and 28 of the *Convention on the Rights of Persons with Disabilities (CRPD)* require States Parties to recognise the rights of people with disability to live in the community, with choices equal to others, and to have adequate housing.¹

The Royal Commission has heard about the considerable barriers faced by people with disability in securing housing that is accessible, affordable and supports meaningful inclusion in the community as well as autonomy at home. They can also experience violence, abuse, neglect and exploitation in a variety of living environments.

In this chapter, we adopt a human rights approach to providing housing for people with disability. We then describe the current context for housing and disability in Australia. This includes the housing system; the range of housing, funding and supports available for people with disability; and the experience of homelessness and homelessness services for people with disability.

In the remainder of the chapter, we examine the evidence and information we received in relation to a series of key issues. We also discuss the following proposed reforms:

- Gaps in housing and disability policy and strategy frameworks should be addressed to ensure people with disability are given appropriate priority in government planning and actions (section 8.4, 'Effective housing and disability policy frameworks').
- Fundamental reforms are required to ensure people with disability can access housing that is suitable and safe, and enjoy secure tenancy and occupancy rights (section 8.5 'Housing accessibility', section 8.6 'Secure housing: tenancy and other forms of occupancy', and section 8.7 'Safety in supported residential services and their equivalents').
- Reforms are needed to support transitions to safe and secure housing for people who lack housing security and are at risk of homelessness, and for those experiencing chronic homelessness (section 8.8 'Preventing and responding to homelessness').

The housing sector needs to change so it can deliver a much greater supply of inclusive housing options that support people with disability. This is particularly the case for those with more profound disability or complex needs, to enable them to live on their own terms in the community, with genuine choices and options. This further area of reform is discussed in Chapter 9, 'The future of group homes'.

Our key areas of evidence

The Royal Commission held two key hearings focused on the housing experiences of people with disability:

- Public hearing 3, ‘The experience of living in a group home for people with disability’, examined the experiences of people with disability living in group homes in Victoria. (Public hearings 13, 14, 20, 25, 30 and 32 also examined evidence about specific group home providers, which is considered in more detail in Volume 10, *Disability services*).
- Public hearing 26, ‘Homelessness, including experience in boarding houses, hostels and other arrangements’, examined the experiences of people with disability who have been homeless, were at risk of homelessness and/or were living in insecure housing in New South Wales and Victoria, or were living in Supported Residential Services (SRS) in Victoria.

In many of our other hearings, private sessions and submissions, we also heard about inadequate housing, adverse experiences in group homes, and experiences of homelessness or lack of housing security.

We are also aware of the critical role that access to appropriate, safe and secure housing plays in determining broader socio-economic outcomes. The Victorian Disability Services Commissioner said in a submission that people with disability:

may lack affordable housing or access to transport, which again creates a cycle of unemployment or underemployment. It also perpetuates a situation where people with disability may be reliant on others, even when those relationships are not safe.²

Equally, the barriers to economic participation faced by many people with disability limit their ability to secure housing that is affordable, accessible, safe and secure. As set out in Part 2 of this volume, ‘Inclusive employment’, the labour force participation rate for people with disability aged 15 to 64³ is considerably lower than the rate for people without disability (53 per cent compared with 84 per cent).⁴ These rates are particularly low for people with psychosocial disability, intellectual disability, head injury, stroke or acquired brain injury;⁵ and for women with disability and First Nations people with disability.⁶

The effects of these barriers and disadvantages across the life course for people with disability are discussed further in Volume 3, *Nature and extent of violence, abuse, neglect and exploitation*.

8.2. A rights approach to housing

Articles 19 and 28 of the *CRPD* recognise the rights of people with disability regarding homes and living.

Article 19 *Living independently and being included in the community* requires ratifying countries to recognise the rights of people with disability to live in the community and to choose where and with whom they live. It states:

States Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- a. Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others, and are not obliged to live in a particular living arrangement
- b. Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community
- c. Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.⁷

The Committee on the Rights of Persons with Disabilities (CRPD Committee) in its *General comment no. 5 (2017) on living independently and being included in the community* elaborates on the meaning of article 19 (*General comment no. 5*). It states that article 19 imposes specific obligations on States Parties to fulfil this right and that people with disability must have ‘all necessary means to enable them to exercise choice and control over their own lives ... including place of residence’.⁸ *General comment no. 5* further explains that ‘[i]ndividual choice ... is not limited to the place of residence but includes all aspects of a person’s living arrangements’.⁹

In Public hearing 31, ‘Vision for an inclusive Australia’, Mr Gerard Quinn, United Nations Special Rapporteur on the rights of persons with disabilities, described the purpose of article 19 as ‘how to be your own person in the world and connected to the world in which you live’.¹⁰

Article 28 recognises the right of people with disability ‘to an adequate standard of living for themselves and their families, including adequate food, clothing and housing’ and aims to lift people with disability out of poverty.¹¹ Article 28(d) requires States Parties ‘to ensure access by persons with disabilities to public housing programmes’.¹²

A human rights approach to homelessness

From a human rights perspective, homelessness is the consequence of a failure to protect, respect and fulfil the right to an adequate standard of living.¹³

Article 25(1) of the *Universal Declaration of Human Rights* adopted by the General Assembly of the United Nations in 1948 declares:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services ...¹⁴

Article 11(1) of the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*¹⁵ recognises the right to ‘an adequate standard of living, including adequate food, clothing and housing and to the continuous improvement of living conditions’. States Parties are required to take appropriate steps and use ‘all appropriate means’, including the adoption of legislative measures, to progressively fully realise the rights recognised in the *ICESCR*.¹⁶

In 1991, the Committee on Economic, Social and Cultural Rights (CESCR) published *General comment no. 4 on the right to adequate housing*.¹⁷ The CESCR stated that the right to housing should not be interpreted in a narrow or restrictive sense, and that it is more than just a right to shelter or a roof over one’s head. It ‘should be seen as the right to live somewhere in security, peace and dignity’.¹⁸ Housing should be ‘adequate’. The adequacy of housing depends on factors including legal security of tenure; the availability of services, materials, facilities and infrastructure; and affordability, accessibility, habitability, location and cultural adequacy.¹⁹

The right to an adequate standard of living, including adequate housing, is also recognised in other international instruments to which Australia is a party. These include:

- Article 5(e)(iii) of the *Convention on the Elimination of All Forms of Racial Discrimination*²⁰ recognises the ‘right to housing’ for everyone, without distinction.
- Article 14(2)(h) of the *Convention on the Elimination of All Forms of Discrimination against Women*²¹ recognises the right of women in rural areas to ‘enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications’.
- Article 27 of the *Convention on the Rights of the Child*²² recognises the right of every child to ‘a standard of living adequate for the child’s physical, mental, spiritual, moral and social development’. It also requires States Parties to take appropriate measures to help implement this right, and provide material assistance and support programs where there is a need, ‘particularly with regard to nutrition, clothing and housing’.
- Article 21(1) of the *United Nations Declaration of the Rights of Indigenous Peoples* recognises that Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including in relation to housing.²³

In 1993, the then Special Rapporteur on adequate housing, Rajindar Sachar, sought to ‘preclude confusion and possible misunderstandings as to the legal nature, scope and intent of the right to housing’, stating:

The fundamental nature of an adequate place to live in peace, dignity and security is such that a recognition of housing rights must be seen and interpreted, in the most general sense, to imply ... that the State will endeavour by all appropriate means possible to ensure everyone has access to housing resources adequate for health, well-being, security and consistent with other human rights.²⁴

In her report dated 26 December 2019, the then Special Rapporteur on adequate housing, Leilani Farha, presented *Guidelines for the Implementation of the Right to Adequate Housing*.²⁵ The report states:

Homelessness is a profound assault on dignity, social inclusion and the right to life. It is a *prima facie* violation of the right to housing and violates a number of other human rights in addition to the right to life, including non-discrimination, health, water and sanitation, security of the person and freedom from cruel, degrading and inhuman treatment.²⁶

The *CRPD* in Australia

In its 2013 *Concluding Observations for Australia*, the CRPD Committee expressed concern that, despite a policy to close large residential centres, new initiatives such as group homes ‘replicate institutional living arrangements’.²⁷ The committee also noted that people with disability ‘are still obliged to live in residential institutions to receive disability support’.²⁸

The CRPD Committee encouraged Australia to ‘develop and implement a national framework for the closure of residential institutions, and to allocate the resources necessary for support services that would enable persons with disabilities to live in their communities’.²⁹ In *General comment no. 5*, the committee defined ‘living independently in the community’ as living in settings ‘outside residential institutions of all kinds’.³⁰

In its 2019 *Concluding Observations for Australia*, the CRPD Committee was concerned that Australia had been slow to implement elements of the *CRPD*.³¹ The committee commented on article 28(1), expressing concern about the limited consideration of persons with disabilities, particularly First Nations people, in strategies to reduce poverty and homelessness in Australia.³² It also recommended that governments ‘[i]ncrease the range, affordability and accessibility of public and social housing’.³³

The Royal Commission examined the extent to which the *CRPD* informed the development of housing policy and governments’ responses to homelessness for people with disability. As Counsel Assisting’s submissions following Public hearing 26 contended:

The right to adequate housing involves more than a right to shelter and responses to homelessness require more than the provision of housing. Nonetheless the provision of adequate housing is a critical element in addressing homelessness experienced by people with disability.³⁴

8.3. Context for housing and disability in Australia

Housing and homelessness services in Australia are provided across a broad range of living environments. The Australian Government, state and territory governments, non-government providers and the broader housing market all play a part in this complex system.

The housing system for people with disability operates under a range of national strategies and agreements, and funding and operational frameworks. People with disability who are National Disability Insurance Scheme (NDIS) participants are also eligible to access a range of funding options to support independent living.

Agreements and strategies

The relevant national disability and housing policies and operations reflect, to varying degrees, the current housing policy for people with disability.

Australia's Disability Strategy

Australia's Disability Strategy 2021–2031 (ADS) sets out a plan for continuing to improve the lives of people with disability in Australia over the period 2021 to 2031, and has been agreed by the Australian Government and state and territory governments.³⁵ The ADS is discussed in more detail in Volume 5, *Governing for inclusion*.

The ADS identifies key outcome areas, including that people with disability live in inclusive, accessible and well-designed homes and communities. Housing policy priorities in the ADS include increasing the availability of affordable housing, making housing accessible and ensuring people with disability have choice and control about where they live, with whom they live, and who comes into their home.³⁶

National Housing and Homelessness Agreement

The National Housing and Homelessness Agreement (NHHA) is an inter-governmental agreement between the Australian Government and state and territory governments that took effect on 1 July 2018. Its objective is to support initiatives under bilateral agreements designed to improve Australians' access to secure and affordable housing across the housing spectrum.³⁷

The NHHA identifies a range of national priority cohorts, including women and children affected by family and domestic violence, children and young people, First Nations people, people experiencing repeated homelessness, people exiting institutions and care into homelessness, and older people.³⁸ The NHHA does not specifically refer to people with disability or the ADS.³⁹

The Australian Government provides around \$1.6 billion to the states and territories each year to improve Australians' access to secure and affordable housing through the NHHA.⁴⁰ To receive funding, state and territory governments must have housing and homelessness strategies that address the national priority policy areas and national priority homelessness cohorts, and must help to improve data collection and reporting.⁴¹ States and territories are responsible for determining priorities, the type and location of homelessness services funded, and making decisions about social housing.⁴² Annual reporting includes disaggregated information on the identified priority homelessness cohorts.⁴³ People with disability were referenced in state-level agreements in the Australian Capital Territory, New South Wales, Queensland and Tasmania in 2022.⁴⁴

In 2022, the Productivity Commission reviewed the NHHA and found it to be ineffective in its current form.⁴⁵ In the Productivity Commission's view, the NHHA fails to ensure collaboration between governments, excludes important levers influencing policy outcomes and lacks effective governance.⁴⁶

Emerging initiatives

In 2022, the then Australian Government announced that it would develop a National Housing and Homelessness Plan (National Plan) to help more Australians access safe and affordable housing. The National Plan is to be a 10-year strategy setting out a shared vision and proposing short-, medium-, and longer-term reforms to inform future housing and homelessness policy in Australia.⁴⁷ The Australian Government Department of Social Services (DSS) has started work on the National Plan and we understand stakeholder engagement activities began in the second quarter of 2023.⁴⁸

An interim Housing Supply and Affordability Council was established in January 2023. The council is an independent advisory body to the Australian Government on matters relating to housing supply and affordability.⁴⁹ There appears to be no disability representation on the interim council and no mechanisms for ensuring the needs of people with disability are addressed by council initiatives. However, we understand the council may consider the need to improve housing outcomes for at-risk groups when performing its functions.⁵⁰

Homes and living: NDIS

The NDIS provides a variety of homes and living supports to NDIS participants. These include Specialist Disability Accommodation (SDA), Supported Independent Living (SIL), Individualised Living Options (ILO), support coordination, home modifications, and short and medium-term accommodation.

NDIS Specialist Disability Accommodation

Specialist Disability Accommodation (SDA) is a form of accommodation funded by the NDIS for people who need specialist housing solutions – that is, homes with design features that facilitate the provision of intensive supports⁵¹ in response to extreme functional impairment or very high needs.⁵²

SDA is funded separately from the provision of support services for participants. This means that, in principle, participants may change their support provider without changing their accommodation provider, and vice versa.⁵³

SDA is governed by the *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2020* and *National Disability Insurance Scheme (Specialist Disability Accommodation Conditions) Rule 2018*. Under these rules, generally only registered NDIS providers can provide SDA funded through a participant's NDIS plan.⁵⁴ In addition, dwellings intended to be used as SDA for participants must be enrolled with the National Disability Insurance Agency (NDIA) and meet certain standards depending on the category of enrolment.⁵⁵ Enrolment categories are based on the design and type of dwelling appropriate for the person, and the area in which the SDA will be located.⁵⁶

Eligibility for SDA is limited to participants who meet specified criteria. These include an 'extreme functional impairment' or 'very high support needs',⁵⁷ and satisfying the 'SDA needs requirement'.⁵⁸ As of June 2022, 42 per cent of people with SDA funding in their plan have an intellectual disability as their primary type of disability.⁵⁹ The next two largest groups are participants with cerebral palsy (11 per cent) and participants with autism (10 per cent).⁶⁰

Unless a participant is eligible for SDA, the NDIS does not generally directly fund long-term accommodation.⁶¹ As of September 2022, there were around 21,000 people with SDA supports in their NDIS plan.⁶²

The total number of SDA dwellings as at 30 June 2022 was 7,086 (up 14 per cent compared to June 2021).⁶³ As at June 2022, the most common types of SDA dwellings were villas, duplexes and townhouses (32 per cent), followed by group homes (30 per cent), apartments (19 per cent), houses (15 per cent) and legacy stock (4 per cent).⁶⁴

NDIS Supported Independent Living

Supported Independent Living (SIL) refers to a type of support that participants may purchase using their NDIS plan funds. SIL includes help with and/or supervision of daily tasks to help the person live as independently as possible.⁶⁵ The NDIA describes SIL as being 'for people with higher support needs, who need some level of help at home all the time', and who need 'a significant amount of help throughout the day, seven days a week. This includes overnight support'.⁶⁶

Eligible NDIS participants can access SIL if they live by themselves or with other NDIS participants.⁶⁷ NDIS participants can choose whether to use a registered or unregistered NDIS SIL provider unless requiring regulated restrictive practices that can only be provided by a registered provider.⁶⁸ As at December 2022, 29,812 participants were accessing SIL supports.⁶⁹ Participants are able to choose their SIL provider once this funding has been included in their NDIS plan.⁷⁰

The 2019 review of the *National Disability Insurance Scheme Act 2013* (Cth) (*NDIS Act*) noted that the transparency of the SIL processes could be improved and that there should be separation between the provision of housing and the provision of supports within the home, wherever practicable.⁷¹ The Minister for the NDIS⁷² announced in April 2023 that SIL would be reviewed as part of NDIS reforms.⁷³

NDIS Individualised Living Options

Individualised Living Options (ILO) aim to enable NDIS participants to explore housing options, and plan for moving into a home of their choice with the appropriate supports. In the first stage of ILO, a person with disability designs what type of housing they want and need, and chooses where they want to live, and with whom. They also decide what supports they need, and who they would like to provide the supports. The second stage involves support to put those things in place.⁷⁴

ILO is designed for participants who need either informal or formal support for at least six hours each day, but do not require regular overnight support or 24-hour rostered support.⁷⁵

For the period 30 November 2021 to 30 November 2022, 1,323 NDIS participants received funding for ILO (be it stage 1, stage 2 or both).⁷⁶ This represents a very small proportion of NDIS participants.

Where people with disability live

People with disability live in different forms of housing and accommodation. Broadly speaking, there are 'mainstream' options such as housing owned by the person or their family, private rental, social housing, and boarding houses. There are also 'specialist options', where housing is specifically designed to cater for people with disability who need support, such as group homes, residential facilities and other supported accommodation.⁷⁷

When people with disability live in their own home (for example, the family home, or an owned or rented home) as outlined in the private housing section below, they may use their NDIS funding package to purchase the services and supports they need. This can include support staff coming into the home to assist with activities of daily living like bathing, dressing, cooking and cleaning. It may also include support staff assisting with out-of-home activities such as going to work, shopping for groceries, attending appointments or socialising.

When people with disability live in supported accommodation, we heard that housing and support services can often be provided by the same organisation that provides the housing.⁷⁸ Disability supports are generally shared by residents.⁷⁹

The following sections summarise a range of housing and accommodation environments where people with disability live. It is not intended to be exhaustive.

Private households

According to the Australian Institute of Health and Welfare (AIHW) the vast majority of people with disability aged under 65 (around 99 per cent) live in private households.⁸⁰ Households are defined as a private dwelling or self-care retirement unit where one or many people live, and include social housing, which is defined below.⁸¹ People with severe or profound disability are more likely to rent compared to those with milder disability.⁸² As of 2018, of the 581,400 First Nations people living in households (excluding those in very remote areas and discrete First Nations communities), almost one-quarter have a disability.⁸³

Social housing

Social housing is for people on low incomes who cannot afford to or are unable to rent through the private rental market. Social housing includes: ⁸⁴

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- public housing and state owned and managed Indigenous housing, which are properties owned and managed by state and territory housing authorities
 - community housing and Indigenous community housing, which are properties owned or managed by community organisations and usually registered as not-for-profit.

As of June 2021, there were around 417,800 households living in the four main types of social housing across Australia:⁸⁵

- 288,300 households (69 per cent) were in public housing
- 98,900 households (24 per cent) were in community housing
- 14,000 households (3.3 per cent) were in state owned and managed Indigenous housing.

The proportion of households living in social housing has steadily declined since 2011, from 4.8 per cent to 4.2 per cent in 2021.⁸⁶ As of June 2021, 163,500 households were on the waiting list (excluding transfers) for public housing (up from 154,600 at June 2014), and 12,100 households were on a waiting list for state owned and managed Indigenous housing (up from 8,000 at June 2014).⁸⁷

It can be difficult to determine how many people with disability are waiting for or live in social housing as data collected does not always accurately include disability status or type. As of June 2021, AIHW national data indicated that 36 per cent of social housing households (approximately 143,000) included at least one person with disability.⁸⁸

General boarding houses

Traditional boarding houses were large buildings with many bedrooms located in or near city centres and used by travellers and single working men to be near to their employment. Since the middle of the 20th century, boarding houses, including smaller buildings, have increasingly housed people 'living on low incomes who do not or cannot work and experience health and mental health issues or significant impairment from substance misuse and addiction'.⁸⁹ Other characteristics of boarding house residents include:

that they are more likely to live with psychiatric and behavioural issues, social isolation and poor access to community supports and high levels of general health care needs with a profile in many cases of repeated admissions to acute care health facilities.⁹⁰

Boarding houses may also be known as rooming or lodging houses in some jurisdictions. In 2021, the Australian Bureau of Statistics recorded 19,607 persons under the age of 65 living in boarding houses, of whom 644 were people with 'severe and profound' disability. The total number of people under the age of 65 living in boarding houses grew by 29 per cent between 2016 and 2021.⁹¹

Supported boarding houses

Some jurisdictions have accommodation similar to boarding houses for individuals with additional support needs due to a disability, mental ill health, or age-related conditions. This type of accommodation is provided by private providers and regulated under state or territory legislation.

Jurisdictions with assisted boarding houses and similar facilities refer to them by different names, including:

- assisted boarding houses in New South Wales⁹²
- supported residential services (SRS) in Victoria⁹³
- supported residential facilities in South Australia⁹⁴
- Tier 3 residential services in Queensland.⁹⁵

These services emerged as an alternative for some people with disability, particularly psychosocial and intellectual disability, who could not access other types of supported accommodation due to the closure of many large institutions during the 1970s and 1980s.⁹⁶

In Public hearing 26, the Royal Commission examined SRS in Victoria. SRS residents pay a set portion of their Disability Support Pension or Age Pension (usually around 85 to 95 per cent)⁹⁷ plus 100 per cent of their Commonwealth Rent Assistance. This amount is generally between \$900 and \$1,000 a fortnight and covers the resident's room, meals and support. As at August 2022, 114 SRS operated in Victoria.⁹⁸ At that time, Victorian SRS could accommodate up to around 4,000 residents,⁹⁹ but they had only 3,100 residents.¹⁰⁰

There are significant differences in how private boarding house accommodation operates in each jurisdiction. These include approaches to regulation, oversight and monitoring, legislation, and rights and protections for people with disability. This is discussed further in sections 8.6 and 8.7.

Group homes

Group homes are a form of accommodation where services and supports are provided to residents with disability. The *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2020 (SDA Rules)* state that a 'group home is distinguished from other houses by having four or five longterm residents'.¹⁰¹ The SDA Rules define 'house' by reference to particular features:¹⁰²

- (a) it is a low-rise dwelling with gardens or a courtyard
- (b) it is located on a clearly separate land area (separated by, for example, a fence, hedge or other form of delineation)
- (c) it has no shared wall, roof, entry area, driveway, carpark or outdoor area with any other dwelling other than an ancillary villa, townhouse or duplex that has no more than one resident

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- (d) the parcel of land on which the house is located is proportional to the number of residents and is consistent with similar properties in the neighbourhood in which the house is located
 - (e) the parcel of land on which the house is located has no more than 2 ancillary villas, duplexes or townhouses.

The *SDA Rules* do not define dwellings with six or more residents, but where those dwellings are SDA enrolled, they are described in NDIS publications as 'legacy stock'.¹⁰³ This 'legacy stock' accommodation is usually owned by state and territory governments and is based on larger residential centres that predated the group home model. The transition from legacy group homes to a fully compliant group home model under SDA includes the following conditions:¹⁰⁴

- (i) During the immediate five-year period after the property's location transitions into the Scheme, the NDIA's pricing for Legacy Stock covers the costs of the property
- (ii) For properties with 11 or more residents, SDA Legacy Stock payments will cease [five years] after the property's location transitions into the Scheme.
- (iii) For properties with 6 to 10 residents, SDA Legacy Stock payments will cease [ten years] after the property's location transitions into the Scheme.

In 2022, the NDIS Quality and Safeguards Commission (the NDIS Commission) conducted the Own Motion Inquiry into Aspects of Supported Accommodation in the NDIS (Own Motion Inquiry). It acknowledged that there were a number of remaining large institutional settings where it is up to the providers to plan for and facilitate redevelopment. The report also noted a number of larger facilities are owned by state and territory governments with no plans for redevelopment.¹⁰⁵

As of September 2022, there were around 21,000 people with SDA supports in their NDIS plan.¹⁰⁶ Of those receiving SDA, there are at least around 7,000 people residing in group homes¹⁰⁷ (notwithstanding the limitations of the dataset).¹⁰⁸ This estimated figure represents an undercount of the total number of group home residents. Not all people with disability living in group homes receive SDA supports, and there are issues with the quality and completeness of the data currently available.

In Chapter 9 we look into the group home model in more detail.

Unregulated 'pop-up' housing

The Royal Commission heard about 'pop-up' facilities in Public hearing 26. These provide services and accommodation to people with disability, but in practice avoid regulation or scrutiny.¹⁰⁹ Dr Colleen Pearce AM, the Victorian Public Advocate, raised concerns about this emerging model of housing. She described it as being 'outside of the norms and outside of the current regulative frameworks' and therefore opaque to regulators.¹¹⁰

The Royal Commission heard reports of people with disability being moved away from their accommodation or the facilities where they were receiving treatment¹¹¹ and into pop-up accommodation.¹¹²

There is currently no way of knowing the extent of pop-up accommodation in the market, the number of people it houses or the proportion of residents who are NDIS participants. SIL providers are not required to be registered with the NDIS except if the NDIS participant requires regulated restrictive practices.¹¹³ The NDIS does not have data on the number of people who transition from one type of housing to another,¹¹⁴ unless they are transitioning to SDA.¹¹⁵

Younger people living in residential aged care

In its 2019 report on Australia's compliance with the *CRPD*, the CRPD Committee recommended revisions to the Australian Government's Younger People in Residential Aged Care Action Plan to ensure that no person aged under 65 should enter or live in residential aged care by 2025.¹¹⁶ The recent Royal Commission into Aged Care Quality and Safety recommendation to achieve this¹¹⁷ has been accepted by the Australian Government.¹¹⁸

There appears to be progress towards this target. Between 30 June 2021 and 30 June 2022:

- the number of people aged under 65 living in permanent residential aged care in Australia decreased by 25 per cent to 2,934¹¹⁹
- the number of people aged under 45 living in permanent residential aged care in Australia decreased by 32 per cent to 68.¹²⁰

Homelessness and homelessness services

Definitions of 'homelessness' and 'disability'

There is no uniform or agreed definition of 'homelessness' in Australia. This makes it difficult to determine how many people experience homelessness, including people with disability.

There are two key national datasets for homelessness in Australia: the Australian Bureau of Statistics Census of Population and Housing data (2021 Census data) and the AIHW Specialist Homelessness Services Collection (SHSC).

For the purposes of the 2021 Census data, 'homelessness' is defined as:

When a person does not have suitable accommodation alternatives, they are considered homeless if their current living arrangement: is in a dwelling that is inadequate; or has no tenure, or if their initial tenure is short and not extendable; or does not allow them to have control of and access to space for social relations.¹²¹

In 2021 Census data, the definition of 'person with a disability' is limited to those people with a 'severe or profound' disability needing help or assistance in one or more of the three core activity areas of self-care. These areas include mobility and communication because of a disability, a long-term health condition (lasting six months or more), or old age. As a result of this definition, the number of people with disability is likely under-represented.

The SHSC data identifies a person as ‘homeless’ if they are living in:¹²²

- non-conventional accommodation or sleeping rough, defined as living on the streets, sleeping in parks, squatting, staying in cars or railway carriages, living in improvised dwellings or living in long grass
- short-term or emergency accommodation due to a lack of other options, includes those living in refuges, crisis shelters, couch surfing, living temporarily with friends and relatives or in insecure accommodation, such as emergency accommodation, hotels, motels and boarding houses, on a short-term basis.

The SHSC data is limited to people accessing specialist homelessness services (SHS) and relies on self-reporting of disability status. People may not identify as a person with disability for many reasons, including the absence of a diagnosis.¹²³ For this reason the data is likely to underestimate the number of people with disability who access homelessness services.

Rates of homelessness for people with disability

The 2021 Census data showed that of people aged under 65 with ‘severe or profound’ disability, 4,792 were homeless and 3,457 were marginally housed on Census night in 2021.¹²⁴ The data also indicated that people aged under 65 years with ‘severe or profound’ disability were over-represented among either those who are homeless or living in marginal housing compared to those without disability.¹²⁵ Other than the limitation noted above regarding the narrow definition of disability, the Australian Bureau of Statistics noted that people sleeping rough were sampled using a short version of the census form that does not ask about disability status.¹²⁶

Our *Interim report* recorded that First Nations people with ‘severe or profound’ disability were over twice as likely as First Nations people without disability to have experienced homelessness.¹²⁷ The Australian Bureau of Statistics states that Aboriginal and Torres Strait Islander people are over-represented in measures of homelessness using its definition, which was developed for application to the general population. The Australian Bureau of Statistics acknowledges the definition does not adequately capture other aspects of homelessness from First Nations peoples’ perspectives, including high rates of residential mobility and living on Country.¹²⁸

Key findings presented in the AIHW’s *Specialist homelessness services annual report 2021–22* about SHS clients in 2020–2021 reveals that around 3 per cent (or around 7,300) identified as persons with disability.¹²⁹ Sixty-two per cent of people with disability had mental health issues.¹³⁰ Seventy-two per cent experienced one or more vulnerabilities, including a current mental health issue, problematic drug and/or alcohol use, or family and domestic violence.¹³¹ Fifteen per cent over the age of 15 were receiving (or awaiting) the Disability Support Pension as their main source of income.¹³²

Work to improve data about the experiences of people with disability is underway. The National Disability Data Asset (NDDA) is being developed to bring together de-identified information about people with disability from different government agencies (for example, from Centrelink

and health, justice and education services). The NDDA is intended to provide more comprehensive data about the experiences of people with disability and the programs and services they use.¹³³ Five test pilots using NDDA data began in 2020. One of these pilots focused on housing. For further discussion about the NDDA see Volume 12, *Beyond the Royal Commission*.

NDDA housing data analysis found that between July 2012 and June 2020, 39 per cent of SHS clients (see below) identified as people with disability (significantly higher than indicated by the SHSC data).¹³⁴ In terms of the type of disability and complexity of need, NDDA data showed that in 2020–21, 45 per cent of SHS clients with disability had more than one disability and 73 per cent had a psychosocial disability.¹³⁵

Specialist homelessness services

SHS provide services aimed at prevention and early intervention, and crisis and postcrisis assistance to support people experiencing or at risk of homelessness.¹³⁶ SHS receive government funding to deliver a variety of accommodation-related and personal services and assistance.¹³⁷

For the 2023–24 financial year, the Australian Government has allocated an additional \$65 million for states and territories to address homelessness under the NHHA.¹³⁸ States and territories are required to at least match Australian Government funding.¹³⁹ There is no NHHA funding specifically allocated for people with disability¹⁴⁰ nor any agreement that funds should be allocated to support people with disability.

8.4. Effective housing and disability policy frameworks

People with disability are conspicuously absent from key national housing and homelessness policy frameworks. These include the former National Affordable Housing Agreement and the current NHHA. Homelessness is also a stark omission from the priority areas of the ADS.

This lack of integration between housing and homelessness policy and disability policy at a national level leads to a significant policy gap and fails to put appropriate focus on the housing and homelessness issues that affect many people with disability.

People with disability in key national housing and homelessness approaches

Article 28(1) of the CRPD Committee's 2019 *Concluding Observations for Australia* on the right to an adequate standard of living expressed concern about:

The limited consideration of persons with disabilities, particularly Aboriginal and Torres Strait Islander persons with disabilities, in poverty and homelessness reduction strategies, including the National Affordable Housing Agreement and the National Partnership Agreement on Homelessness.¹⁴¹

The committee recommended Australia ensure that people with disabilities are included as a priority cohort in the implementation of programs to reduce poverty and provide public housing.¹⁴²

The 2022 Productivity Commission review of the NHHA identified a need for greater recognition of disability. This review included an examination of ‘the extent to which the NHHA is meeting the obligations of governments under Australia’s Disability Strategy’.¹⁴³ It proposed the next NHHA should align with the ADS and that the Australian Government and state and territory governments should commission a targeted action plan for housing under the ADS to improve the availability of affordable and accessible housing for people with disability.¹⁴⁴

In Public hearing 26, the Royal Commission heard about opportunities to include the housing needs of people with disabilities within the new national housing priorities. Mr Matthew Flavel, Deputy Secretary, Social Security Stream, Department of Social Services, agreed that the new Housing Supply and Affordability Council and the National Housing and Homelessness Plan would both provide opportunities to increase the focus on people with disability.¹⁴⁵

The Housing Supply and Affordability Council is intended to support the Australian Government’s leadership role in increasing housing supply and improving housing affordability. Mr Flavel accepted that the views of people with disability ‘should absolutely be front of mind for the work of a council such as that’.¹⁴⁶

Mr Flavel also agreed with Senior Counsel’s suggestion that:

a National Housing Supply and Affordability Council would be an appropriate forum to take a rightsbased approach to housing and homelessness, and that would be a place where the Commonwealth commitments to the *CRPD* could also factor in.¹⁴⁷

The new National Housing and Homelessness Plan aims to be ‘a clear national strategy to address the significant challenges facing the housing and homelessness sector’.¹⁴⁸

The Australian Government intends to develop the plan in consultation with states and territories and other relevant stakeholders in 2023.¹⁴⁹ We consider that this plan should expressly include people with disability as a priority group, given the rates of homelessness and housing stress among people with disability.

Counsel Assisting’s submissions following Public hearing 26 proposed the Royal Commission consider a recommendation to include people with disability as a priority cohort in the current NHHA (which ends June 2024).¹⁵⁰ The Australian Government disagreed¹⁵¹ on the grounds that existing priority groups are broad and reflect the intersectional nature of these cohorts.¹⁵² However, the Australian Government added that when entering into new agreements beyond the current NHHA, it would be conscious of the needs of at-risk Australians, including those with disabilities.¹⁵³

The Australian Government’s submissions following Public hearing 26 recorded that it is committed to developing a National Housing and Homelessness Plan that will set out key short-, medium- and long-term reforms and establishing a National Housing Supply and

Affordability Council to improve housing and homelessness outcomes generally.¹⁵⁴ There was no commitment that any future plan would expressly include people with disability as a priority group,¹⁵⁵ but the Australian Government recently announced that it would specifically work ‘to improve housing outcomes for people with disability’.¹⁵⁶

The Australian Government also pointed out in its submissions that states and territories make decisions about social housing. These include decisions about the building and allocation of dwellings and ensuring the availability of affordable and accessible housing that meets individual needs, including those of people with disability.¹⁵⁷ The Royal Commission agrees with Counsel Assisting that people with disability should be expressly identified as a priority group in all key housing and homelessness plans. This is a necessary step in meeting the housing needs and preferences of people with disability through targeted actions and in giving effect to the obligations imposed by article 19 of the *CRPD*.

Recommendation 7.33 Prioritise people with disability in key national housing and homelessness approaches

- a. The Australian Government should, in collaboration with state and territory governments, expressly identify people with disability in key housing-related agreements and planning including the:
 - National Housing and Homelessness Agreement (NHHA), which should include people with disability as a priority group of housing and homelessness reforms
 - proposed National Housing and Homelessness Plan, which should include people with disability as a priority group, and include the measurement and evaluation of outcomes for people with disability
 - National Housing Supply and Affordability Council, which should include people with disability as a priority group in the development of housing supply and affordability policy advice, data collection and reporting.
- b. All state and territory governments should include people with disability in housing and homelessness strategies, policies and action plans developed under the NHHA. This should include people with disability as a priority group, and the monitoring and evaluation of implementation and outcomes for people with disability.

Homelessness in Australia’s Disability Strategy

The ADS identifies key outcome areas, including a range of housing policy areas, but homelessness is not specifically identified.

Following Public hearing 26, Counsel Assisting submitted that the omission of homelessness from the ADS and the failure to address the risk of homelessness should be remedied.

Similarly, in its review of the NHHA, the Productivity Commission recommended that Australian, state and territory governments should commit to commissioning a housing targeted action plan under the ADS to improve the availability of affordable and accessible housing for people with disability.¹⁵⁸

The Australian Government's submissions accepted that homelessness was not considered to be a priority issue in the development of the ADS.¹⁵⁹ However, the government maintained that other outcome areas and their priorities in the ADS address factors that might lead to homelessness.¹⁶⁰

In our view, homelessness should be included explicitly in the ADS. As discussed in section 8.3, many people experiencing homelessness have disability. Expressly including homelessness in the ADS as a priority would encourage all governments in Australia to develop programs aimed at breaking the link between disability and homelessness, especially intellectual disability and other cognitive impairment.

Recommendation 7.34 Include homelessness in Australia's Disability Strategy

The Australian Government should increase the focus on homelessness in Australia's Disability Strategy by:

- a. ensuring consultations concerning, and reviews of, Australia's Disability Strategy include people with disability at risk of experiencing homelessness and their representative organisations
- b. expressly including homelessness as a policy priority within the 'Inclusive Homes and Communities' key outcomes.

This recommendation builds on recommendations in Volume 5.

8.5. Housing accessibility

Inaccessibility in different settings

Inaccessible housing, including private, social and crisis housing, can be a barrier to securing a home for people with disability.¹⁶¹ The lack of a secure and accessible home can also impact other areas of people's lives. For example, it can make it harder to obtain and maintain meaningful employment, and make it harder to access the support that people with disability may need.¹⁶²

The *Disability Discrimination Act 1992* (Cth) (*DDA*) makes it unlawful to discriminate on the grounds of another person's disability in a number of areas relevant to housing. It is unlawful to discriminate on the basis of disability with respect to access to premises;¹⁶³ the provision

of services and facilities,¹⁶⁴ by refusing an application for accommodation, in the terms or conditions on which accommodation is offered¹⁶⁵ or by deferring the person's application for accommodation;¹⁶⁶ and in the disposal of land.¹⁶⁷

In addition, the *DDA* makes it unlawful to discriminate by denying a person with disability access to any benefit associated with their accommodation;¹⁶⁸ evicting them;¹⁶⁹ subjecting them to any other detriment in relation to the accommodation;¹⁷⁰ or by refusing to permit them to make reasonable alterations at their own expense to the accommodation they occupy.¹⁷¹ These provisions of the *DDA* are not often invoked successfully by people with disability in relation to accessing or maintaining accommodation.¹⁷²

In cases involving public housing authorities, for example, courts have rejected disability discrimination claims on the ground that the failure to provide accommodation meeting the complainant's needs was due to a shortage of housing stock rather than the complainant's disability.¹⁷³

The *DDA* does not impose a positive duty on accommodation providers to make housing accessible for people with a disability. Nor does it require an accommodation provider to eliminate direct or indirect discrimination, as far as possible.¹⁷⁴ There is further analysis of the *DDA* in Volume 4, *Realising the human rights of people with disability*.

However, the *Disability (Access to Premises – Buildings) Standards 2010 (Premises Standards)*, which are made under the *DDA*, create standards with the objective of ensuring 'dignified, equitable, cost-effective and reasonably achievable access to buildings, facilities and services within buildings, is provided for people with disability'.¹⁷⁵ The *Premises Standards* apply to specific types of new buildings, or new parts of those buildings, including new buildings with one or more bedrooms used for rental accommodation and existing buildings with four or more bedrooms used for rental accommodation.¹⁷⁶ We discuss the *Premises Standards* in Volume 4. The National Construction Code 2022 (NCC) is a design, construction and performance standard for all new buildings and new building work across Australia. Consequently, it is only directed towards accessibility of new buildings. However, for some people with disability, accessibility is an issue with their current accommodation. They may require alterations or modifications so they can safely access and live in their home.¹⁷⁷ The evidence in Public hearing 26 identified two key issues with home modifications: identifying who is responsible for providing modifications and the evidence required to support modification requests.¹⁷⁸

In accordance with the *NDIS Act*¹⁷⁹ and the Applied Principles and Tables of Support (APTOS), the NDIS is responsible for providing personalised supports related to a participant's disability support needs, unless those supports are part of another service system's universal obligation or constitute a reasonable adjustment required by the *DDA* or similar applicable legislation.¹⁸⁰

States and territories are responsible for providing social housing.¹⁸¹ State public housing authorities are subject to the requirement in the *DDA* to provide reasonable adjustments for a tenant or occupant, acknowledging the requirement exists even if the tenant or occupant is an NDIS participant.¹⁸² The APTOS states 'social housing providers have a duty to make reasonable adjustments in providing accessible housing stock for people with a disability'.¹⁸³ The APTOS is also discussed in Volume 5.

A home that is inaccessible or unsuitable for people with disability can deny them opportunities for independence. A survey of over 1,000 people with disability found that inaccessible housing increased the need for paid and unpaid supports for most survey respondents, particularly people with high support needs.¹⁸⁴ Some survey respondents reported spending high proportions of their NDIS support funding on self-care activities they could have done independently in more accessible homes.¹⁸⁵ For example, one survey respondent who lived in social housing stated:

On the topic of NDIS: because my housing is inaccessible I have basically \$25,000 a year funding purely to supervise me [while] showering, which would be completely unnecessary if I had an actual accessible bathroom. It is completely bonkers.¹⁸⁶

The inaccessibility of private housing

It can be difficult for people with disability to find private rental properties that meet their accessibility needs.¹⁸⁷ Participants in the Productivity Commission's disability consultation for the NHHA review said that people with disability face barriers to modifying rental properties to meet their needs.¹⁸⁸

The Productivity Commission also heard accounts of rents being raised as a result of modifications, which, in turn, made accessible homes unaffordable.¹⁸⁹ Against a backdrop of broader rental market affordability and supply issues, this can create a significant financial barrier for people with disability.

The inaccessibility of social housing

Social housing plays an important role in providing housing for people with disability who are on a low income.

According to the AIHW, around 36 per cent of social housing tenants are people with disability.¹⁹⁰ Despite this apparently high proportion, we have heard that accessing suitable social housing can be a difficult and protracted process. Data published through ADS reporting based on AIHW data indicates that the average wait time for public housing for newly allocated households with a member with disability was 413 days for public housing and 389 days for state owned and managed Indigenous housing in 2020–21.¹⁹¹ State owned and managed Indigenous housing is administered by state and territory governments and specifically targeted to First Nations households.¹⁹²

Public hearing 26 witnesses who had accessibility needs described being on the social housing waiting list for more than five years.¹⁹³ 'Claudia', who has a physical disability and sometimes uses a wheelchair,¹⁹⁴ said:

I have been on the waiting list for five years now, and they are projecting that it will be another five years before they can find me a ground-floor apartment, but that says nothing of whether the bathroom is accessible or the kitchen is accessible.¹⁹⁵

Nik Moorhouse, who is legally blind,¹⁹⁶ discussed the problems they experienced navigating the social housing system to secure accommodation, even with a knowledgeable and proactive NDIS support coordinator.¹⁹⁷ For example, Nik was provided with documents that they were unable to read, despite advising of their accessibility needs.¹⁹⁸

Nik had applied for public housing in 2016 and received a first offer of housing in October 2021 after waiting for five years.¹⁹⁹ This housing offer did not meet Nik's needs, and they declined due to accessibility and safety concerns.²⁰⁰ The NSW Department of Communities and Justice (DCJ) disputed that sufficient evidence was provided to support these needs and determined that Nik had rejected a reasonable offer. According to DCJ processes, this meant that Nik would only receive one more offer before their name was taken off the housing register. Their waiting time on the housing register would then begin again, from the date of the new application.²⁰¹

In our engagement sessions, submissions²⁰² and Royal Commission private sessions,²⁰³ people with disability shared experiences of long waiting times for social housing, a mismatch between accessibility needs and the housing offered, and barriers to obtaining modifications. We also heard about people with disability accepting social housing that was inaccessible and inappropriate due to a fear of being removed from a waiting list or no other options being available.²⁰⁴ One example included a resident living in a house for six years where she was unable to use the shower due to her walker and commode not fitting.²⁰⁵

The NSW Ombudsman investigated issues with the modification of public housing properties in New South Wales. Its July 2022 report noted continuing issues with protracted delays, poor communication, and inadequate complaints handling. The report's recommendations included updating policies and procedures, developing business rules to guide staff, and improving record keeping and staff training.²⁰⁶

The Productivity Commission review of the NHHA also identified shortcomings with social housing. These included long waiting times, inequities, and housing providers having little incentive to respond to tenants' needs and preferences. This last point could result in homes not meeting tenants' requirements, including in terms of size, location and accessibility.²⁰⁷

Crisis and emergency housing and accommodation

Crisis accommodation is short-term accommodation intended to house people for up to three months following an emergency. Following this, some people may move into transitional accommodation for up to two years.²⁰⁸

In preparation for Public hearing 26, the NDIA provided information on the self-reported housing status of NDIS participants. This demonstrated a significant increase in the number of NDIS participants self-reporting they were living in short-term crisis accommodation:²⁰⁹

- 2019–20 financial year – 1,411 participants
- 2020–21 financial year – 1,897 participants
- 2021–22 financial year – 2,171 participants.

In Public hearing 3, Ms Nadia Mattiazzo of Women with Disabilities Victoria spoke about access to refuges for people escaping domestic and family violence. Ms Mattiazzo noted the lack of alternative housing options and additional barriers faced by women with disability wishing to leave abusive situations.²¹⁰ She gave the example of a woman who uses a wheelchair being unable to take refuge in a shelter partly due to its inaccessible toilet and changing facilities.²¹¹

In Public hearing 17, 'The experience of women and girls with disability with a particular focus on family, domestic and sexual violence', witnesses explained the additional challenges of finding crisis housing for people with disability, especially women and children experiencing domestic and family violence.²¹² This can cause people to remain in homes where they are experiencing violence and abuse. Ms Nicole Lee is a family violence and disability activist, mother and person with disability. She gave evidence about her challenges finding refuge accommodation that was accessible and child-friendly.²¹³

The *Violence and abuse of people with disability at home issues paper* was published to elicit information about the nature and extent of violence and abuse experienced by people with disability in their homes. The responses raised concerns about the lack of accessible short-term accommodation options for people with disability who were experiencing violence and abuse at home. We were told that the challenges for people with disability of leaving a situation of violence are compounded by limited access to alternative secure and accessible accommodation. WWILD Sexual Violence Prevention Association explained that the lack of appropriate accommodation for people with disability experiencing violence means victims either have to remain in a violent situation or be hospitalised for extended periods of time.²¹⁴

Several responses provided examples of women with disability being refused assistance by domestic, family and sexual violence shelter services because of accessibility requirements or assumptions about their disability. People with Disability Australia gave an example of a woman with cerebral palsy who used a wheelchair and was abused by her partner. A neighbour who came to her assistance called the local crisis shelter and found it was unable to accommodate a wheelchair user.²¹⁵

Other forms of crisis accommodation can also be inaccessible. In Public hearing 26, Nik Moorhouse provided evidence about seeking crisis accommodation when they were facing eviction. The only option available to Nik was shared accommodation that could not accommodate their youngest daughter.²¹⁶

'Colin' is a 58-year-old man with muscular dystrophy who uses a wheelchair and lived in Lismore during the devastating floods of February 2022.²¹⁷ In the six months between the floods and Public hearing 26, Colin was homeless. He moved from temporary accommodation to temporary accommodation throughout the Northern Rivers and North Coast areas of NSW²¹⁸ never knowing how long he would be 'disconnected from family and friends'.²¹⁹ The range of government programs implemented to address the recovery needs of the affected local government areas²²⁰ did not help Colin to access crisis accommodation in the immediate aftermath of the flooding.²²¹ Ms Lisa Short, State Manager, New South Wales and Australian Capital Territory, NDIA, accepted that the agency should have done more to assist Colin but was unable to indicate an immediate response suitable for people in Colin's position.²²²

Implementing accessible housing design

The *CRPD* promotes the use of ‘universal design’ principles for the creation of an inclusive society. Universal design means ‘the design of products, environments, programs and services to be useable by all people, to the greatest extent possible, without the need for adaption or specialised design’.²²³ The Victorian Council of Social Service in its response to the Royal Commission’s *Promoting inclusion issues paper* proposed that embedding universal design to drive accessibility was a core characteristic of an inclusive society.²²⁴ The Physical Disability Council of NSW’s response to the issues paper also highlighted the importance of inclusion. The council’s response included a recommendation that the ‘principles of inclusion and inclusive practice’ should be adopted in ‘developing safe and suitable housing options for people with disability based on universal design principles that provide choice and control consistent with article 19 of the *CRPD*’.²²⁵

Ensuring that social housing is designed to better meet the accessibility requirements of people with disability is critical in ensuring the sector meets the needs and preferences of tenants. In section 8.5 and Chapter 9 we make recommendations for ensuring people with disability have housing options other than types of supported accommodation such as group homes and supported residential services. We note that an increased supply of accessible social housing will be important in realising this recommendation.

Regarding crisis and emergency housing, a lack of accessible housing options fails people with disability at a time when they are experiencing significant risk and need. It increases their risk of homelessness, particularly in relation to women and girls with disability, exposing them to serious harm or death.

Livable Housing Design Guidelines

The Livable Housing Design Guidelines were launched on 13 July 2010. The guidelines were an outcome of the National Dialogue on Universal Housing Design. This dialogue brought together representatives from the housing industry, government, disability and community sectors to develop options for the housing industry to adopt principles of universal design.²²⁶ Livable Housing Australia, a partnership between community and consumer groups, government and industry, is responsible for the ongoing development, dissemination and revision of the guidelines.²²⁷ The guidelines help governments and the building industry to understand how to incorporate universal design principles into new housing design and construction,²²⁸ and to address the shortage of accessible housing.²²⁹ Adoption of the guidelines was voluntary.

The guidelines set out three performance levels: silver, gold and platinum. The silver level focuses on basic structural and spatial elements that ensure the future flexibility and adaptability of a home to avoid costly modifications later.²³⁰ It requires:²³¹

- providing step-free access to the home
- making doorways and hallways easier to use for people with reduced mobility (and those using wheelchairs)

- providing extra space in the bathroom and toilet
- wall reinforcing in the bathroom and toilet, to make it easier to install grabrails if needed in the future.

Silver level does not require the design to include a bedroom or shower at entry level.²³²

Gold and platinum levels of construction provide people who use wheelchairs with suitable homes for purchase and rental, or homes that require fewer and more affordable modifications. Having a greater number of gold or platinum compliant homes means that people who use wheelchairs can more easily visit the homes of friends, neighbours and family.²³³

Livable housing design standards

The National Construction Code 2022 (NCC 2022) is a design, construction and performance standard for all new buildings and new building work across Australia. It sets minimum requirements for structure, fire safety, access and egress, accessibility, health and amenity, and sustainability.²³⁴ It is written and maintained by the Australian Building Codes Board (ABCB).²³⁵

In 2017, the then Building Ministers' Forum, supported by the Council of Australian Governments, directed the ABCB to undertake a regulatory impact analysis on the possible inclusion of accessibility requirements for residential housing into the NCC 2022.²³⁶ Inclusion was based on the Livable Housing Design Guidelines.²³⁷ As part of this process, the Centre for International Economics (CIE) was commissioned to prepare an independent regulatory impact statement and cost-benefit analysis to inform consultation on the inclusion of accessibility requirements. The cost-benefit analysis was released for public comment and decision-making, and concluded that:

Although a lack of accessible housing imposes a significant and growing cost on the community (incurred mostly by people with disability and older people) regulatory options to amend the NCC for all new houses and apartments based on Silver, Gold and Gold + impose costs that outweigh the benefits.²³⁸

The cost-benefit analysis methodology was criticised by the Melbourne Disability Institute on the grounds that it details and quantifies the costs but fails to adequately account for the qualitative and social benefits of increased levels of accessible housing.²³⁹ Although the final report includes 'evidence on the harms of inaccessible housing', the CIE was unable to 'quantify and monetise' qualitative factors.²⁴⁰

The CIE noted:

the [cost-benefit analysis] is not the only input to decision-making. Decision-makers are best placed to weigh up factors, such as social justice for people with disability supporting more inclusive communities and ageing in place, as well as Australia's future progress towards international human rights treaties, against the net cost imposed on other members of the community.²⁴¹

According to the regulatory impact statement, since the release of the voluntary Livable Housing Design Guidelines in 2010, estimates of the proportion of new private homes built to the guidelines range between 5 per cent and 10 per cent.²⁴²

In April 2021, the majority of building ministers agreed to include minimum accessibility provisions for residential housing and apartments in the NCC 2022 that were based on the silver level in the guidelines. Ministers also agreed that the ABCB would publish a voluntary gold technical standard for accessible housing.²⁴³

The communique from building ministers noted:

The decision taken by a majority of Ministers acknowledges the costs identified in the Decision Regulatory Impact Statement but reflects their assessment that a regulatory solution will result in significant lasting benefit to Australians who need access to homes with accessible features.²⁴⁴

The NCC 2022 has been amended to include liveable housing design requirements, including minimum accessibility requirements.²⁴⁵ In practice this means reducing steps where possible, more space in the bathroom, wider doorways and providing for future adaptations such as adding grab rails.²⁴⁶

The ABCB has published two standards:

- the mandatory Livable Housing Design Standard,²⁴⁷ which has been adapted from the silver level requirements of the Livable Housing Design Guidelines²⁴⁸
- the voluntary Livable Housing Design Standard,²⁴⁹ which has been adapted from the gold level requirements of the Livable Housing Design Guidelines.²⁵⁰

All jurisdictions except New South Wales and Western Australia have committed to adopting the mandatory Livable Housing Design Standard. The Australian Capital Territory, Northern Territory and Queensland have committed to commencing in October 2023. Victoria has committed to commencing in May 2024, and South Australia and Tasmania have committed to commencing in October 2024.²⁵¹

Some exemptions to the standards can be applied where appropriate. For example, the NCC 2022 provides exemptions to the requirement for a step-free access path for sites that are steep or have insufficient space.²⁵²

Expanding application of accessible housing design

Following Public hearing 26, Counsel Assisting submitted that the Royal Commission consider making a recommendation to the Australian Government and state and territory governments to commit to increasing the availability and supply of accessible and adaptive housing for people with disability. This would include all jurisdictions immediately mandating the Livable Housing Design standard based on silver level in the Livable Housing Design Guidelines if they have not done so already.²⁵³

The Australian Government response to Counsel Assisting's submissions observed that state and territory governments are responsible for making decisions about housing including social housing. The National Housing and Homelessness Agreement (NHHA) establishes that states and territories are responsible for 'social housing and homelessness services, administration and delivery to support local needs'.²⁵⁴ The APTOS were developed to set out the respective responsibilities of the NDIS and state and territory agencies for services in and outside mainstream settings such as health, education and housing.²⁵⁵ APTOS states that 'social housing providers will be responsible for providing accessible accommodation for people in need of housing assistance in line with existing allocation and prioritisation processes'. In addition, 'housing and homelessness services will continue to be responsible for homelessness-specific services'.²⁵⁶

The Australian Government's view is that the proposed recommendation is principally the responsibility of state and territory governments.²⁵⁷ Accordingly, we propose, at a minimum, state and territory jurisdictions that have not already done so should adopt the mandatory Livable Housing Design Standard in the NCC 2022, which is based on the silver level in the Livable Housing Design Guidelines.

This would align more closely to the CRPD Committee's 2019 concluding observations that recommended federal law be amended to provide mandatory rules for accessible housing.²⁵⁸ The CRPD Committee's recommendation included developing regulations and standards to guarantee the progressive application of universal design principles in accessible housing.²⁵⁹

Counsel Assisting's submissions following Public hearing 26 noted there is an argument to raise the requirements of the mandatory silver level or to require adoption of the (currently voluntary) gold level as the minimum level for all new buildings.²⁶⁰ The gold level provides further enhancements, such as a bedroom and kitchen at entry level.²⁶¹

This view was supported in submissions received by the Royal Commission, including one from the Australian Network of Universal Housing Design.²⁶² In Public hearing 3, Dr George Taleporos, Policy Manager at the Summer Foundation, said:

We need minimum standards in accessibility in all new housing. We can't obviously retrofit every house, but moving forward it would be really helpful if houses were built in a way that they were accessible for people, and I would recommend the Livable Housing Australia guideline standard of gold for all new housing.²⁶³

Given the number of people with a disability on waiting lists or living in social housing, the Royal Commission also recommends that new social housing properties be built to the voluntary ABCB Livable Housing Design Standard, which is based on the gold level in the Livable Housing Design Guidelines.

We also recognise the importance of people with disability being able to access accommodation in times of crisis. This may include, for example, refuges for women and their children fleeing domestic and family violence or emergency accommodation as a result of homelessness.

An audit of current crisis accommodation and demand should be conducted to determine where the voluntary ABCB Livable Housing Design Standard needs to be applied in the construction or adaptation of crisis accommodation.

This aligns with recommendation 16 of the National Homelessness Inquiry of the House of Representatives Standing Committee on Social Policy and Legal Affairs. Recommendation 16 emphasises the importance of more accessible social and crisis housing appropriate for people with diverse needs, including, but not limited to, older people, people living with disability, people from culturally and linguistically diverse backgrounds, and First Nations people.²⁶⁴ The Australian Government agreed to support this recommendation in principle.

We welcome the recent agreement by members of the Disability Reform Ministerial Council to work together to ‘increase supply of safe, affordable and accessible housing for people with disability’. Council members also agreed to ‘advocate on accessible housing more broadly and to work with their Housing counterparts, and task housing and disability senior officials to scope a program of joint work to deliver improved housing outcomes for people with disability’.²⁶⁵

Recommendation 7.35 Increase the availability and supply of accessible and adaptive housing for people with disability through the National Construction Code

State and territory governments should commit to increasing the availability and supply of accessible and adaptive housing for people with disability by:

- a. immediately adopting the mandatory Australian Building Codes Board (ABCB) Livable Housing Design Standard for all new dwellings if they have not done so already, and developing a plan for the full implementation of the standard, including timeframes and outcomes measures
- b. adopting the voluntary ABCB Livable Housing Design Standard for all new social housing construction
- c. auditing the demand for, and accessibility of, current crisis housing (including domestic family violence shelters and refuges, and natural disaster crisis accommodation) to:
 - determine the appropriate amount, location and cost of crisis housing required to meet the needs of people with disability
 - set appropriate targets for new crisis housing construction and refurbishment that meet the voluntary ABCB Livable Housing Design Standard.

Improving access to social housing

Article 28 of the *CRPD* requires States Parties to take measures to ensure people with disability have equal access to public housing programs.²⁶⁶ Applying liveable housing design principles to social housing will help Australian jurisdictions to realise this right. However, social housing application, allocation and adjustment policies and procedures also need to be designed to meet the needs and preferences of people with disability.

Following Public hearing 26, Counsel Assisting submitted that the Royal Commission may consider recommending that ‘Australian, state and territory governments develop and implement accessible and inclusive processes for allocation, modification and maintenance of social housing for people with disability’.²⁶⁷

The Royal Commission agrees that social housing processes and policies should be accessible and inclusive, particularly given the high proportion of people with disability who are social housing tenants. These processes should also ensure that people with disability are not housed in an environment where they are at heightened risk of violence, abuse, neglect and exploitation.

It is also important that policy and procedure documents about the allocation of social housing and the social housing offer process are published in accessible formats. This enables people with disability, and where appropriate their advocates, to understand and actively engage with the allocation and offer processes. This will also include understanding the extent to which people with disability have choice and control about accessing a social housing property, and the processes to raise issues and make complaints.

Recommendation 7.36 Improve social housing operational policy and processes

State and territory governments should develop and implement accessible and inclusive processes for allocating and modifying social housing for people with disability, including by:

- a. reviewing and amending application processes to:
 - identify whether applicants have a disability or accessibility needs, including those relating to communication, housing and access to community/support networks and services
 - put processes in place to update this information as needs change

-
- b. reviewing, amending and publishing (in accessible formats) housing allocation and 'reasonable offer' policies and procedures to ensure these can be easily understood and do not disadvantage people with disability seeking particular adjustments or modifications, or people who decline housing for accessibility reasons
 - c. reviewing, amending and publishing (in accessible formats) housing modification policies. The policies should clearly articulate who is responsible for organising and funding housing modifications, expected timeframes, and contacts for following up and raising concerns.

8.6. Secure housing: Tenancy and other forms of occupancy

A person's housing security depends on the kind of accommodation and the nature of the person's right to or interest in the premises being occupied. People who own their own homes enjoy secure housing because, subject to certain obvious exceptions, no-one else can force them out of their accommodation. Exceptions include the right of a secured lender to sell the property in the event of default by the borrower or owner.

People who do not own their own home experience housing insecurity to varying degrees. This is because their right to occupy their home may depend on the actions of others, in particular the owner or manager of the property, over whom they have little or no control.

Non-owners residing in a property as tenants generally enjoy significant legal protections. These protections exist under the general law (which recognises that tenants generally have greater security of tenure than other occupiers such as those holding, under what the law calls, licences rather than leases) and, more extensively, under the residential tenancies legislation in each state and territory.

People living in boarding houses, which are called 'rooming houses' in some jurisdictions, usually have very limited security of tenure. Their rights depend on the legislation in force in the state and territory in which they live. The situation is similar for people living in accommodation such as caravan parks and manufactured home estates.

When people with disability reside in 'specialist' accommodation, their rights will vary. These rights depend on whether the accommodation is a group home, a supported residential service, an assisted boarding house or NDIS-funded Specialist Disability Accommodation. These are described in section 8.3. The rights and duties of the owner or manager and the resident of this accommodation depend on the content of legislation, rules and other forms of regulations, including contractual arrangements.

Given these different types of accommodation available, recommendations for reforms to make the housing of people with disability more secure must address legal regimes that are not uniform and can be complex.

Security is vital in every type of occupancy

Having secure housing is particularly important for people with disability. It can facilitate social participation and inclusion, access to employment opportunities, access to education and training, and the ability to make adjustments to the home. The NDIS generally only funds modifications to a rental property when the renter is likely to remain in the property for the long term. Tenants themselves can be reluctant to make necessary alterations if they are uncertain about how long they can stay in a rental property.²⁶⁸

Additionally, insecure tenure compounds the challenges of obtaining accessible housing in the private rental market. The recent nationwide shortage of rental accommodation²⁶⁹ shows the difficulties most prospective renters face in securing satisfactory housing for themselves and their families. People in supported accommodation are particularly vulnerable due to their limited security of tenure. It is also important to remember that a high proportion of people living in supported accommodation are people with intellectual disability or cognitive impairment. They do not necessarily have adequate support to understand and enforce their rights.

There can be serious consequences, including homelessness, for people with disability when they lose the right to occupy particular premises. People with disability have told us of the difficulties they face in securing affordable and suitable housing and accommodation. Ensuring people with disability have greater security of tenure, particularly in supported accommodation, is important to stop them being caught in a cycle of poverty and disadvantage.

Security in the private residential tenancy sector

All states and territories have enacted residential tenancies legislation. The legislation is based on a consumer protection philosophy, giving tenants a guaranteed minimum level of rights and imposing commensurate obligations on the owners or managers of the rental property. The legislation generally applies whether the tenant is in private rental housing, shared housing or social housing.²⁷⁰ It has its origins in the recommendations of the 1975 Australian Government Commission of Inquiry into Poverty, Second main report.²⁷¹

The legislation was introduced across all Australian states and territories over the subsequent two decades to provide greater protections for residential tenants in the private rental market. Generally speaking, residential tenancies legislation: ²⁷²

- provides standard form agreements
- incorporates non-negotiable terms into agreements
- imposes minimum standards regarding rental payments and conditions of premises
- prohibits contracting out of the legislative requirements
- provides access to tribunals (rather than courts) to resolve disputes
- regulates the circumstances in which tenants can be evicted and the landlord can recover possession.

The legislation applies to people who satisfy the definition of ‘landlord’ or ‘tenant’, but broadens the definition of ‘tenant’ to include people in ‘exclusive occupation’. As long as the resident retains control over part of the premises (even though the owner has reserved rights of access) they are protected by the legislation. Therefore, the legislation extends protection to a much larger cohort of residents.

In its modern form the legislation, although not uniform across jurisdictions, accords tenants considerably greater security of tenure than the common law. Tenants now have greater protection against eviction by reason of breaches of the lease (primarily by being afforded greater latitude in rectifying the breaches) and longer periods of notice to vacate premises. In most jurisdictions they have access to what are intended to be relatively prompt, informal and inexpensive tribunals, such as the NSW Civil and Administrative Tribunal (NCAT),²⁷³ to resolve disputes between landlord and tenant.

Of particular significance for people with disability, the legislation does not generally offer protection for people who board (defined as those who are provided with lodging and meals by the owner) or lodge (defined as those who occupy premises owned or leased by another who resides there and retains control).²⁷⁴ Legislation in this form therefore denies protection to a class of occupants whose rights are limited and precarious.²⁷⁵ For instance, approximately 3,100 people with disability were residing in ‘supported residential services’ in Victoria in 2022.²⁷⁶ The problem is compounded by the uncertainty around the service agreements created by property owners with residents.

In Public hearing 20, ‘Preventing and responding to violence, abuse, neglect and exploitation in disability services (two case studies)’ and Public hearing 26, the Victorian Public Advocate expressed concern about an increase in unregulated private rental accommodation. The Public Advocate said these arrangements often involved people with disability whose rights as occupants were unclear.²⁷⁷ With emerging forms of ‘pop up’ (unregulated shared private rental) housing, the Public Advocate described tenancy rights as extremely limited. She referred to a high turnover of residents and said tenancy or occupancy agreements may range from complicated legal documents that are difficult to understand to a few lines on a sheet of paper.²⁷⁸

Boarders or lodgers in private accommodation are not the only people not covered by the legislation. Groups of people sharing public or privately-owned housing, including much that is funded as SDA, are also inadequately protected. This is discussed below.

Insecurity in the private rental sector: ‘No-grounds’ eviction

A focus of proposals for legislative reform in the 1970s²⁷⁹ was the power of landlords under the common law to terminate leases at short notice without the need to demonstrate a reason for doing so. The ability to give ‘no-grounds’ eviction notices was found to contribute to housing instability and potential homelessness, particularly for those with lower incomes or who were vulnerable for other reasons.²⁸⁰

No-grounds evictions of residential tenants arise in two situations. First, a periodic tenancy without an agreed termination date – for example, where the parties agree that rent should be paid weekly or monthly indefinitely – can be terminated under common law principles simply by one party giving notice equivalent to one rental period. Second, a fixed-term tenancy terminates automatically when it reaches the end of its term with no grounds for termination needing to be given by the landlord. For example, a lease of residential premises for a period of one year ends at the expiration of the year unless renewed, which can occur by express or implied agreement. Under these common law principles, the tenant has no legal right to remain in occupation once the fixed term ends or the notice period has expired.

To address the vulnerability of tenants to losing the right to occupy their home, the Poverty Commission recommended that tenancies should only be terminated if the landlord had a just cause to do so. ‘Just cause’ was limited to breach or illegality by the tenant; the landlord’s need to regain possession of the premises as a residence for themselves or their immediate family; or the landlord’s need to sell, demolish or renovate the premises. Landlords would be still able to raise rents by reference to prevailing market conditions, in accordance with the terms of the lease, or when a new lease was granted. These proposals were designed to strike a fair balance between the landlord’s economic interest and the tenant’s need for a secure home.²⁸¹

These proposed reforms were largely ignored by state and territory legislatures after 1975. No-grounds evictions continue to be permitted in all jurisdictions. However, state and territory legislatures adopted several of the Poverty Commission’s other more limited recommendations directed at regulating the landlord’s entitlement to recover possession of residential premises. All jurisdictions now provide that fixed-term tenancies do not automatically end upon expiration of the fixed term specified in the tenancy agreement and require the landlord to give the tenant a period of notice (a ‘no-grounds’ notice) to vacate the premises.

Periodic tenancies (such as weekly or monthly tenancies) and tenancies where the fixed term has expired, but the tenants remain in possession and continue to pay rent, can be terminated in all jurisdictions, except Victoria, Queensland and Tasmania, by service of a ‘no-grounds’ notice, usually of 60 days’ duration.

Legislation requiring minimum periods of notice to terminate a lease restricts landlords’ common law rights but provides only limited security of tenure to tenants. In a tight market in which rental accommodation is both scarce and expensive, 60 days’ notice may not be enough time to move out and secure alternative accommodation.

Modified restriction of no-grounds terminations

In Public hearing 26, Ms Trina Jones, CEO of Homelessness NSW, proposed the landlords’ ‘no grounds’ eviction right be abolished to improve security for people with disability who rent.²⁸² The Physical Disability Council of NSW has made a similar proposal.²⁸³

Legislation in force in Victoria, Queensland and Tasmania restricts the right of landlords to terminate a residential lease without demonstrating a reason for doing so. However, the legislation is limited in scope.

In those states, if a tenant occupies residential premises under a periodic tenancy (such as a weekly or monthly tenancy), the landlord can only terminate the lease by serving a notice to vacate and identifying reasonable grounds for termination permitted by the legislation. The permitted grounds are limited but include the landlord needing the premises:

- for sale with vacant possession
- as a residence for themselves or dependent family members
- to enable renovations to occur
- for re-use as commercial premises
- to enable the building to be demolished.

In the case of an *initial* fixed-term tenancy of residential premises in Victoria, and *any* fixed-term tenancy in Queensland and Tasmania, the landlord can bring the tenancy to an end without having to identify a reason for doing so. Depending on the length of the tenancy, as long as the landlord serves a notice to the tenant no less than 60 to 90 days in advance of the termination date of the tenancy, the landlord will be entitled to vacant possession on that date.²⁸⁴

While these laws give some protection to tenants, they fall well short of providing security of tenure, especially for tenants with fixed-term leases. In Queensland and Tasmania, the ability of landlords to end any fixed-term tenancy simply by giving a period of notice gives little security of tenure to tenants. The Victorian legislation requires the landlord to have just grounds to terminate all fixed-term tenancies except the initial one. The protection given to tenants in Victoria is therefore broader than in other jurisdictions.

Tribunal discretions to make a termination order

Tribunals established in the states and territories have the power to make an order terminating tenancy when a tenant breaches a term of the agreement. The power can be exercised even if the term of the tenancy has not expired, although the tribunal usually has discretion whether or not to make an order, and to determine when the order should take effect. These powers apply to all residential tenancies, including social housing and private residences.

In New South Wales, for example, NCAT may make an order terminating a tenancy if the order ‘in the circumstances of the case’ is justifiable. NCAT has considered a range of factors in determining whether to make such an order, including the state of the tenant’s health. Importantly, NCAT has specifically taken into account a tenant’s disability. In *Maher and Tesoriero v Carter*, for example, NCAT declined to make an order for possession against a 77-year-old man who was blind and had lived in the house for 35 years.²⁸⁵

Similarly, in Victoria, the Victorian Civil and Administrative Tribunal (VCAT) is required to consider whether, in making an order for possession, the order is ‘reasonable and proportionate’ by reference to a range of criteria. However, the legislation does not expressly refer to disability as a relevant criterion.²⁸⁶ In our view, the legislation of the states and territories should expressly

state that the tribunal, in determining whether it is just or reasonable to make an order for possession of premises, may take into account whether the tenant has a disability and also the nature of that disability.²⁸⁷

Social housing

People with disability occupy social housing as tenants and are therefore covered by residential tenancies legislation. Broadly speaking, they enjoy security of tenure as long as they comply with their obligations under their residential tenancy agreement and remain eligible for social housing.

Legislation governing social housing tenancies does not expressly address the position of tenants with disability. In New South Wales, studies have indicated a growing reliance on termination orders based on the tenant's breach of the social housing residential tenancy agreement as a way of controlling tenants.²⁸⁸ Orders made in these circumstances can have a serious impact on social housing tenants, including the risk of being forced into homelessness.

These factors apparently prompted the NSW Parliament to amend the *Residential Tenancies Act 2010* (NSW). Section 154D now provides that NCAT *must* make a termination order in certain circumstances, such as where the social housing tenant causes serious damage to the premises. But this provision does not apply if NCAT:

is satisfied that the termination order would be likely to result in undue hardship being suffered by ... a person suffering from a disability within the meaning of the Anti-Discrimination Act 1977 who is occupying or jointly occupying the social housing premises.²⁸⁹

This qualification to NCAT's duty to make a termination order does not apply to the general provision specifying the matters that NCAT must consider in deciding to make a termination order on grounds other than those mentioned in s154D. Section 154E of the *Residential Tenancies Act 2010* (NSW) requires NCAT to consider such matters as the history of the current tenancy and whether the tenant has wilfully breached an order made by NCAT. But section 154E makes no reference to the disability of a tenant as a relevant criterion.

We consider the legislation of the states and territories would confer greater protection on tenants of social housing who have a disability if the relevant tribunal is empowered, when considering whether to order the termination of a lease, to take into account the tenant's disability and the nature of that disability. This would make the relevant tribunal's power to make a termination order in respect of a social housing tenancy consistent with the power to make a termination order in respect of tenancies generally.

Caravan parks and manufactured home estates

Extensive legislative protection is provided to residents of caravan parks in all jurisdictions except Tasmania. In New South Wales, for instance, the rights and obligations of a caravan park operator and a homeowner are governed by the *Residential (Land Lease) Communities*

Act 2013 (NSW).²⁹⁰ What are conventionally known as caravan parks are now termed 'residential communities'. A resident in a caravan park may be a 'homeowner' if they own the caravan or manufactured home. Alternatively, they may be the tenant of a homeowner, or the tenant of the caravan park operator, if the park owner owns the caravan. As of 2021, people under 65 with 'severe or profound' disability made up 10 per cent of all persons in the same age group who were marginally housed in caravan parks.²⁹¹

The *Residential (Land Lease) Communities Act 2013* (NSW) regulates residential tenancy agreements where the residential premises consist of a 'residential site', or a 'moveable dwelling' on a residential site, and where the resident occupies the premises as their principal place of residence under a 'site agreement' with the operator of the community.²⁹² The *Residential Tenancies Act 2010* (NSW) does not apply to 'site agreements',²⁹³ which are defined as agreements between the operator and the homeowner.²⁹⁴

A site agreement can only be terminated in certain circumstances.²⁹⁵ NCAT has jurisdiction to hear matters arising out of the *Residential (Land Lease) Communities Act 2013* (NSW) and the power to order the termination of a site agreement.²⁹⁶ In addition, NCAT has general powers similar to those conferred by the *Residential Tenancies Act 2010* (NSW).²⁹⁷

In certain circumstances, the *Residential Tenancies Act 2010* (NSW) applies to tenancies of caravans in a residential community. An example is when the occupier of a caravan rents directly from the homeowner (that is, the owner of the caravan). Our proposal that legislation governing a tribunal's power to make a termination order should refer expressly to people with disability, applies equally to an order terminating the tenancy of a caravan.

Occupancy rights in boarding or rooming houses

Residents of boarding or rooming houses, and boarders and lodgers in private homes, have significantly fewer rights than tenants because they are expressly excluded from the residential tenancies legislation.²⁹⁸ Broadly speaking the distinction between tenants and boarders or lodgers in law is that tenants have either exclusive possession or occupation of residential premises, while boarders and lodgers do not have exclusive rights. Their rights to occupation are subject to the control of the owner or manager of the premises. This distinction can be difficult to draw, but is significant for the housing options for people with disability, given the disparity of rights under the different regimes.

The distinction can be shown by reference to case law. In *Wiser v Havelock Housing Association*²⁹⁹ an occupier under an 'occupancy agreement' challenged the owner's notice terminating the agreement. This was on the grounds that the notice was issued in retaliation for certain actions by the occupier in contravention of the *Residential Tenancies Act 1997* (ACT). The tribunal held that the occupier was not a tenant because the owner retained overall control of the premises and could require any occupant to move to a different bedroom during the currency of the agreement.

By contrast, in *Simonoski v The Trustees of the Society of St Vincent de Paul*,³⁰⁰ the resident in supported accommodation was responsible for cleaning and had exclusive occupation of a bedroom. This was despite other parts of the premises being shared with co-residents, and

the owner not residing on the premises. Because the owner therefore had less control over the bedroom occupied by the resident, the relationship was that of landlord and tenant.

Given the precarious nature of residency in boarding houses, legislation governing the management and operation of boarding houses, as well as the rights of owners and residents, has been enacted in all jurisdictions except the Northern Territory.³⁰¹ The legislation does not generally cover boarders (defined as people who are provided with lodging and meals by the owner) or lodgers (defined as people who occupy premises owned or leased by another who resides there and retains control). In New South Wales, for example, for a resident to have protection under the *Boarding Houses Act 2012* (NSW), the premises must be a 'registrable boarding house'.³⁰²

A 'registrable boarding house' may be either a 'general boarding house' or an 'assisted boarding house'. A 'general boarding house' is defined as premises that provide beds, for a fee or reward, for use by five or more residents (excluding proprietors or managers of the premises, and their relatives). An 'assisted boarding house', is defined as premises that provides beds for a fee or award, for use by two or more residents who are persons with 'additional needs' (not counting residents residing there as relatives of the proprietor). Additional needs are defined as 'age-related frailty, a mental illness, a disability, or a permanent or likely permanent condition that requires care or support services'. Assisted boarding houses will be examined in the next section.

The minimum standards governing occupancy of boarding or rooming houses are markedly different from the standards applicable to residential tenancies. In New South Wales, for example, the rights and obligations of a proprietor and a resident are governed by 'occupancy principles'.³⁰³ These include a resident's right to know the rules of the boarding house before moving in and protection against penalties for breaching occupancy agreements or rules. The proprietor is entitled to enter the premises at a reasonable time to carry out inspections or repairs, and for other reasonable purposes. In general, the rights of occupants of this form of accommodation fall significantly short of rights conferred on tenants by residential tenancies legislation, for example, regarding maintaining the premises in good order and condition.

The resident has the right not to be 'evicted without reasonable written notice' (Occupancy Principle 10). What is reasonable 'depends on the circumstances of the case'. A boarder or proprietor may apply to NCAT to resolve an occupancy principles dispute. NCAT has the power to make an order compelling a party to perform an action, or to restrain any action in contravention of the occupancy principles. This power might permit NCAT to restrain the proprietor from evicting a resident with disability until they could find alternative accommodation.³⁰⁴

There is nothing in the New South Wales legislation protecting an occupant's security of tenure other than the vague requirement of reasonable written notice. As noted in the New South Wales Government's Statutory Review of the Act in 2020,³⁰⁵ NCAT cannot review a retaliatory eviction of an occupant who has attempted to assert rights under the occupancy agreement, even where the applicant is a person with disability. The statutory review recommended that greater clarity be given to the reasonable notice requirement regarding termination for breach of agreement and termination with no grounds. While modest, this recommendation would bring the position of boarding house residents closer to that of residential tenants.³⁰⁶

The Victorian legislation gives even less protection to occupants of rooming houses. Occupancy can be terminated with as little as two days' notice. However, the owner must obtain an order from VCAT to recover possession of the occupied premises.³⁰⁷

Supported Residential Services and equivalents

In New South Wales, Queensland, South Australia and Victoria, some people with disability live in boarding house–type accommodation that also provides some support.

In Victoria, this form of accommodation is referred to as 'supported residential services',³⁰⁸ in Queensland as 'Tier 3 residential services',³⁰⁹ and in South Australia as 'supported residential facilities'.³¹⁰ The New South Wales description is 'assisted boarding houses', which are covered by Part 4 of the *Boarding Houses Act 2012* (NSW). This Act aims to be 'consistent (to the extent that is reasonably practicable) with the principles expressed in ... the *United Nations Convention on the Rights of Persons with Disabilities*'.³¹¹ This is the only disability-specific provision in the Act.

For reasons we have explained, residents of this form of accommodation are not covered by residential tenancies legislation, but they are protected to some extent by the legislation governing boarding and rooming houses. In New South Wales and Victoria, that legislation at least provides for disputes to be determined by an independent tribunal.³¹² A resident who has the necessary resources and determination to bring or resist an application in a tribunal can have the tribunal review a proposed eviction, albeit on limited grounds.

We consider that legislation governing boarding or rooming houses, whether providing support or not, should empower tribunals to consider an occupant's disability in exercising the discretion to make orders that terminate an agreement or require an occupant to give up occupancy. The legislation should also provide protection against the retaliatory eviction of occupants who have sought to assert rights against owners and managers. Witnesses have told the Royal Commission about their fear of potential adverse consequences for their family members with disability in supported accommodation if they complained or advocated strongly on their behalf.³¹³

The adoption of this recommendation in all jurisdictions would significantly enhance the rights of people with disability in this type of accommodation.

Group homes

As noted in section 8.3, group homes are a form of accommodation that is 'distinguished from other houses by having four or five longterm residents'³¹⁴ and where services and supports are provided to residents with disability. As we have also explained, residents of group homes are unlikely to be entitled to the protections tenants have under the residential tenancies legislation of the states and territories. This is because they are likely to be classified as boarders rather than tenants. Since a number of NDIS participants live in group homes, it is important that their rights of occupancy are recognised and protected by legislation. Group homes would commonly qualify as SDA. Victoria has enacted legislation extending the cover of its residential tenancies legislation to this type of accommodation.

An innovative Victorian model

Part 12A of the *Residential Tenancies Act 1997* (Vic) came into effect in 2019. It regulates the relationship between an accommodation provider and a resident of SDA.

Part 12A does not define ‘Specialist Disability Accommodation’, but the Act includes many interconnected definitions referring to the concept. A key definition is that of an ‘SDA enrolled dwelling’, which means a permanent dwelling:³¹⁵

- a. that provides long-term use for one or more SDA residents;
- b. that is enrolled as an SDA dwelling under the *NDIS (Specialist Disability Accommodation) Rules* ... as in force from time to time ...

An ‘SDA resident’ is an ‘NDIS participant who is funded to reside in an SDA enrolled dwelling’.³¹⁶ An SDA resident would be likely to qualify as a ‘boarder’ under the general law and legislation governing boarding houses. However, the rights conferred on SDA residents by Part 12A of Victoria’s *Residential Tenancies Act* go considerably beyond the protection afforded to boarders. In some respects, Part 12A goes beyond the protections afforded to tenants under the legislation.

For example, it requires an SDA provider to give 60 days’ notice to the SDA resident (and the resident’s guardian or administrator, if any) of a proposed increase in rent.³¹⁷ Among other things, the notice must inform the SDA resident of their right to apply to the Director of Consumer Affairs to investigate and report on whether the proposed increase is excessive.³¹⁸ The director’s report must explain the resident’s right to apply to VCAT for an order in respect of the proposed rent.³¹⁹

The SDA provider’s obligations to carry out urgent repairs are similar to those imposed on landlords of residential premises. Certain information must be given to SDA residents and provided in a particular way.³²⁰ VCAT and SDA providers must take measures to ensure people with disability have access to VCAT and can understand the proceedings.

An SDA provider may give an SDA resident notice to vacate on certain grounds in accordance with a statutory procedure – for example, where the SDA resident owes at least 14 days’ unpaid rent.³²¹ Various safeguards apply, depending on the nature of the breach.³²² The SDA provider must give the SDA resident at least 90 days’ notice of termination of the agreement, and must provide details of the notice to various authorities within 24 hours (including the CEO of the NDIA).³²³ An SDA resident can challenge the validity of the notice in the tribunal within 90 days.³²⁴

Part 12A of the *Residential Tenancies Act 1997* (Vic) provides a set of clear and, in our view, reasonable protections for SDA residents in Victoria. As at 30 June 2022, there were 19,358 participants with SDA in their NDIS plan, with fewer than one third of them (5,971) located in Victoria. Extension of Part 12A reforms to all jurisdictions would therefore more than triple the number of people enjoying increased legal protection.³²⁵

We recommend all Australian jurisdictions enact legislation modelled on Part 12A. This would extend the protections enjoyed by Victorian SDA residents to all SDA residents. In doing so, it would enhance the rights of residents of all group homes that qualify as SDA.

Secure housing in mainstream and specialist options

Tenancy reform that enhances security of tenure in the mainstream private rental market is a national housing priority policy area in the NHHA.³²⁶ The Productivity Commission review of the NHHA has acknowledged that security of tenure is especially important for people with longterm needs, or those who require modifications to their home, such as people with disability.³²⁷

The previous section highlighted both the precarious nature of occupancy rights of many people with disability who do not own their own home as well as some disability-specific legal provisions that do offer significant protection. The recommendations below seek to address the gaps identified above. They also offer an across-the-board enhancement of the rights of people with disability in both mainstream and supported accommodation. They are consistent with Recommendation 1 in Counsel Assisting's submissions following Public hearing 26. This states that the Australian Government 'commit to focusing on improving conditions for people with disability across all tenure types and include an additional outcome on improving housing outcomes for people with disability at a high risk of homelessness'.³²⁸ Counsel Assisting's Recommendation 6 and Recommendation 7 are to similar effect.³²⁹ The recommendations should be adopted by all state and territory governments.

Several more specific reforms are also recommended to give people with disability greater security of tenure. The reforms should be tailored for the type of tenure and the particular vulnerabilities faced in that type of residency. For convenience, they are divided into 'mainstream' and 'specialist' categories. In general, the proposed reforms are recommended for Australia-wide adoption, although their enactment and implementation are of course matters for individual state and territory governments. Given that most of the proposed reforms represent the best policies already in force in some jurisdictions, their adoption would appear to be very practically feasible.

The Royal Commission heard evidence about the particular risk that can result when the one service provider is responsible for both housing and disability support. The Royal Commission also heard about new private accommodation providers enticing NDIS participants to move in, quickly using up their NDIS funding and then evicting them. At Public hearing 26, Dr Colleen Pearce AM, the Victorian Public Advocate, spoke about emerging models of housing and funding leading to people 'disappearing from SRS'.³³⁰

Given the conflict of interest that providers may have, residents need to be able to bring disputes to an independent arbiter like a tribunal. The greater role recommended above for state and territory civil and administrative tribunals in supported residential services accommodation disputes, particularly in cases of alleged retaliatory eviction, could have provided an effective remedy in cases of that kind. As this problem is an aspect of a much broader issue, it is addressed further in Volume 10, *Disability services*.

Mainstream reform

Tenancy: No-grounds evictions

Tenancy reform that encourages secure tenure in the private rental market is an NHHA housing priority policy area.³³¹ The right to terminate tenancies without grounds has long been considered to contribute to housing instability and potential homelessness for those with lower incomes or who are vulnerable.³³² We are particularly concerned about people with disability in private rental accommodation. People with disability, particularly those with intellectual disability or other cognitive impairment, are at greater risk of homelessness if they are liable to lose their rented home without any reason being given. Requiring a landlord to establish specific grounds in order to terminate a lease is not a guarantee that people with disability renting in the private sector will enjoy long-term security of tenure. However, such a requirement constitutes a significant improvement compared with the current position in most Australian jurisdictions. In this regard, the current New South Wales Government has committed to introducing legislation along these lines in the next term of Parliament.³³³

We therefore propose that the legislation in all Australian jurisdictions should require a landlord of private-sector premises to demonstrate a good reason for terminating any tenancy of residential accommodation, whether that tenancy be periodic or for a fixed term. The permitted reasons should be based on those incorporated in the legislation in force in Victoria, Queensland and Tasmania.

We accept there may be good reason to exempt more expensive private residential accommodation from this requirement. However, this is a matter for each state or territory.

Tenancy: Express requirement to consider disability in relation to discretion to terminate

A lease of residential premises is frequently ended by the tenant's breach of the agreement. Even in the case of a breach, legislation generally confers a discretion on civil and administrative tribunals in certain circumstances to decline to make an order terminating the lease or requiring the tenant to give up possession.

In our view, each jurisdiction that has not already done so should expressly authorise the relevant tribunal, when determining whether to make such orders, to take into account that the tenant or a co-occupant of the premises has a disability.

Tenancy: Social housing terminations

Legislation governing social housing tenancies should confer a similar power on tribunals to consider that the tenant or a co-occupier has a disability and the nature of the disability.

Non-tenancy: Boarding house-style accommodation

The rights of people with disability residing in boarding and rooming houses would be enhanced by extending the occupancy principles in the *Boarding Houses Act 2012* (NSW) that apply to assisted boarding houses to all Australian jurisdictions.

The relevant tribunals should be empowered, when exercising their discretion to order the termination of an occupancy agreement, to consider the occupant's disability or that of a co-occupant. Tribunals should also be empowered to decline to make any such order if the proprietor's actions amount to retaliation for an occupier's attempt to exercise or enforce their rights.

The reforms should also extend to boarders generally, not only to those who reside in boarding houses with a minimum number of residents. A recent New South Wales Government review of the *Boarding Houses Act 2012* (NSW) made a recommendation to this effect.³³⁴

Specialist reform

Non-tenancy: Specialist Disability Accommodation under the NDIS

As noted above, Part 12A of the *Residential Tenancies Act 1997* (Vic) represents a significant advance in the rights of those NDIS participants who are SDA residents. As the NDIS operates nationally, there seems to be no good reason why Victorian SDA residents should enjoy greater legal safeguards than those in other states or territories. Accordingly, we recommend all jurisdictions enact legislation modelled on Part 12A of the *Residential Tenancies Act 1997* (Vic).

Non-tenancy: Boarding house-style accommodation

The proposals in relation to general boarding houses should equally apply to supported disability accommodation such as the supported residential services in Victoria and assisted boarding houses in New South Wales. It should also cover the 'pop up' housing referred to above.

Recommendation 7.37 Increase tenancy and occupancy protections for people with disability

States and territories should review legislation governing the tenancy and occupancy rights of people with disability and adopt the best regulatory and legislative models currently in force, including:

a. in the case of tenancies:

- enacting legislation to replace landlords' 'no-grounds' termination rights with 'reasonable grounds' as currently specified in Victoria, Queensland and Tasmania
- for both social housing and private housing tenancies, where a tribunal has discretion whether or not to order termination of the tenancy or that the tenant give up possession, empowering the tribunal to take the tenant's or a co-occupier's disability and the nature of that disability into account.

b. in the case of non-tenancy accommodation:

- adopting the provisions included in the *Residential Tenancies Act 1997* (Vic) Part 12A to protect residents of Specialist Disability Accommodation (SDA) under the National Disability Insurance Scheme
- introducing 'occupancy principles' similar to those under the *Boarding Houses Act 2012* (NSW), to cover all non-SDA housing, such as assisted boarding houses in New South Wales and supported residential services in Victoria
- extending these occupancy principles to cover 'general boarding houses' in New South Wales and unsupported boarding and rooming houses in other jurisdictions where many people with disability live. This reform should include conferring jurisdiction on the appropriate tribunal to resolve disputes, particularly in relation to eviction
- in hearing disputes about eviction, tribunals be required when determining whether to make an eviction order to consider the occupant's disability, the nature of that disability, the possibility of retaliatory eviction, and the likelihood of finding suitable alternative accommodation.

Additional advocacy and support resources

People with disability living in residential accommodation, as tenants under tenancies or occupiers under agreements, will often need advocacy services and supports to ensure their rights are protected and enforced. Without them, they may be at increased risk of violence, abuse, neglect or exploitation, including homelessness. The Productivity Commission's review of the NHHA recommended the next agreement should include tailored tenancy support for people at risk of losing their social housing or private rental tenancies, and services to help tenants maintain their tenancies and avoid evictions.³³⁵

A policy of expanding tenancy support services will not be straightforward. More evidence is therefore needed to understand what works, where and for whom.³³⁶ Support will also be different for social housing and private rental markets. This recommendation proposes a review of the effectiveness of current tenancy support options in meeting the needs of people with disability. It can then inform the development of future programs.

Organisations that appear to be the most effective in providing support are:

- the tenants' unions in the different jurisdictions
- specialist homelessness services, given their established expertise in assisting and advising people with disability.

Tenants' unions operate in each jurisdiction, already attract government support, are well-known and established, and have a proven record of successful advice and assistance for their clients. They usually have extensive legal expertise because they support tenants with disability, both with advice and representation in tribunal proceedings. Enhancing their capacity, for example, by funding a dedicated disability support officer, is a cost-effective way to provide advocacy and support to people with disability who are tenants. The tenants' unions also help boarders and lodgers and can therefore assist people with disability residing in this form of accommodation.

Additional options for disability-related advice and assistance funding would be to provide greater levels of funding to specialist homelessness services (SHS). They continue to offer extensive support to people with disability accessing assistance, and they keep detailed records of their work and publicise the risks people with disability face. For example, in the most recent SHS report, it was revealed that in the 2021–22 period, 7,300 of SHS clients had severe or profound disability.³³⁷ The Homelessness NSW CEO, Ms Trina Jones, proposed the New South Wales Government should fund SHS to employ staff to responsively support people with disability. This appears to be a reasonable, and reasonably effective, way to address this issue.³³⁸

Another organisation to consider is the Australian Centre for Disability Law given its express mission to provide legal advice and assistance to people with disability. Also, given that the various legal aid commissions have acted as conduits for Royal Commission submissions via the *Your Story Disability Legal Support* portal,³³⁹ granting the centre additional funding would appear to be a cost-effective way to offer support for people with disability.

We suggest that the Australian Government and state and territory governments should consider funding the services identified above for which they have jurisdictional responsibility. The aim would be to provide advice, advocacy and support to people with disability in residential accommodation, whether as tenants or as occupiers under agreements or arrangements. As advocacy and support and its funding is specifically addressed in Volume 6, *Enabling autonomy and access*, the optimal arrangements are more fully examined there.

8.7. Safety in supported residential services and their equivalents

Experiences in supported residential services

We heard evidence about a lack of safety and safeguards for people with disability living in supported residential services (SRS) in Victoria. As outlined earlier in this chapter, SRS are a form of boarding house–style supported accommodation. Residents include people with varied and complex support needs due to a disability, mental ill health, or age-related conditions.

The *Supported Residential Services (Private Proprietors) Act 2010* (Vic) (*SRS Act*) and regulations³⁴⁰ (*SRS Regulations*) set out certain requirements for the accreditation, operation and regulation of SRS. The *SRS Act* stipulates that an SRS refers to residential premises where ‘accommodation and personal support are privately provided or offered to residents for a fee or reward, whether or not registered under this Act’.³⁴¹

There are two types of SRS:

1. **Pension-level SRS** – which charge residents a set portion of their Disability Support Pension or Age Pension (usually 85 per cent to 95 per cent)³⁴² plus 100 per cent of their Commonwealth Rent Assistance (CRA). The total amount is generally between \$900 and \$1,000 per fortnight and covers the resident’s room, meals and support. The age of residents in pension-level SRS varies, but most residents have no income stream beyond their pension.³⁴³
2. **Above pension-level SRS** set their own fees, and the range of additional services and support offered varies. Most residents are over 60 years of age and have income other than the pension.³⁴⁴

In this section, ‘SRS’ refers to pension-level SRS, unless otherwise indicated. As outlined earlier in this chapter, at the time of Public hearing 26 there were 114 registered SRS in Victoria³⁴⁵ that had approximately 3,100 residents³⁴⁶ and the capacity to accommodate up to 4,000 residents.³⁴⁷ Of these registered SRS, 67 were pension-level.³⁴⁸

There is no statutory cap on the number of residents who can be accommodated in a single SRS. The terms of registration will prescribe the maximum number of residents who can be accommodated. The two largest SRS in Victoria are registered to accommodate up to 80 residents, including one where all reside in twin rooms.³⁴⁹ At the time of Public hearing 26, the largest number of residents in a single SRS was approximately 71 people.³⁵⁰ People living in SRS have varied support needs, which we heard ‘are becoming increasingly complex’.³⁵¹ Daily living supports are typically required due to ‘disability, [and] psychosocial, drug and alcohol, homeless or age-related support needs’.³⁵²

The Royal Commission heard through witnesses’ experiences that the complex needs of residents living in SRS are not being adequately met, including their need for safe and clean accommodation and adequate supports.³⁵³ We have seen photographs of squalid and unsafe

living conditions in SRS.³⁵⁴ We heard evidence of residents having no choice regarding mealtimes,³⁵⁵ and prescribed medication times being changed to be more convenient for the proprietor.³⁵⁶

In Public hearing 26, Dr Pearce described the institutionalised nature of SRS:

once we start to get larger scale, then we start to get institutions, and with that comes routine. So, with routine comes 'all of you will eat your dinner at 5 o'clock tonight'. The lights will go out. The doors will close. So, you start to get institutionalised behaviour and, more importantly, you get staffing that is institutionalised ... You get institutionalised thinking that has a detrimental effect on the individual and goes against their ability to make choices, real choices, and to control their circumstances.³⁵⁷

We have also heard that most people living in SRS have support needs beyond those a pension-level SRS³⁵⁸ can provide given that these services often have inadequate staffing levels.³⁵⁹ Staff often have minimal experience and training, including in areas related to case work, health, mental health first aid, harm minimisation, conflict management, aggressive behaviour management, and cultural diversity and safety.³⁶⁰

The financial viability of the sector also continues to be an issue. The evidence indicates SRS cannot meet the increasingly complex needs of resident populations, given the limited resources available under the SRS model.³⁶¹

During Public hearing 26, 'Denise' told the Royal Commission that Hambleton House SRS was the 'most awful place' she had ever been in her life.³⁶² Denise described being cold, frightened and intimidated while living at Hambleton House. She was bitten by bed bugs and had objects thrown at her by other residents.³⁶³ In 2021, a Victorian COVID-19 taskforce discovered living conditions that were so poor state regulators were forced to act. During the course of the subsequent rehousing of residents, dangerous electrical and fire safety breaches were uncovered. We saw photographs of bedrooms set up for three or four people to share, with no personal space or privacy.³⁶⁴

'Jacob' lost 13 kilograms when he went on a hunger strike to protest against the electricity and heating being constantly turned off in his SRS. He told us about dirty shared bathrooms, toilet doors without locks and poor-quality meals, with minimal access to fresh fruit or vegetables.³⁶⁵ 'Bel' gave evidence that she was not allowed to get her own meals or snacks and had no choice about the menu or mealtimes.³⁶⁶

People with disability also live in general boarding houses.³⁶⁷ The available data indicates that 5 per cent of boarding house residents under the age of 65 years are people with severe or profound disability.³⁶⁸ This figure is likely to be an underestimate due to limited data collection.

We heard that in the absence of alternatives, boarding house accommodation can become longer term or permanent, despite being intended as short-term transitional accommodation.³⁶⁹ In these settings, insufficient attention is often paid to quality, safety, autonomy, dignity, and inclusion, both for residents with disability and those without disability.³⁷⁰

Regulatory, oversight and monitoring frameworks for supported residential services

The *SRS Act* and *SRS Regulations* set out the minimum standards applicable to SRS with respect to accommodation and personal support.³⁷¹ The *SRS Regulations* prescribe 15 domains within the standards:³⁷²

- Standard 1: Privacy, dignity and confidentiality
- Standard 2: Independence and choice
- Standard 3: Protection from abuse
- Standard 4: Protection of private property
- Standard 5: Choice
- Standard 6: Nutritious food
- Standard 7: Safe food
- Standard 8: Choice of and access to health care providers
- Standard 9: Personal support
- Standard 10: Clothing
- Standard 11: Bedding and linen
- Standard 12: First aid
- Standard 13: A safe environment
- Standard 14: A clean, comfortable and well-maintained environment
- Standard 15: Emergency procedures and planning.

The Human Services Regulator in Victoria has used various approaches to regulate proprietors in the 13 years since the *SRS Act* was introduced. These include issuing ‘advice or guidance letters’ to ‘build capacity’ in the SRS sector.³⁷³ More recently there has been a stronger focus on framing identified concerns as potential breaches of the *SRS Act*.³⁷⁴ However, the evidence suggested the regulatory regime for SRS has been largely ineffective until very recently. Appalling conditions were allowed to persist, despite the regulator assuring community visitors that the SRS in question were compliant.³⁷⁵

Counsel Assisting’s submissions following Public hearing 26 highlighted the challenges with the current regulatory regime for SRS, with inadequate resourcing to support proactive monitoring, inspections and other regulatory work.³⁷⁶

Dr Pearce noted that there had been a ‘marked difference’ in the Human Services Regulator’s approach recently,³⁷⁷ and there was now ‘a willingness to be more proactive, more assertive’.³⁷⁸

Supported residential services and equivalents

As described in section 8.3, supported accommodation services that are similar to SRS are also available in New South Wales, South Australia and Queensland.

The regulatory, oversight and monitoring frameworks for these SRS equivalents are complex, and vary across jurisdictions, with each state having developed specific oversight and monitoring regimes.

In New South Wales, these supported accommodation services are known as assisted boarding houses. As at March 2023, New South Wales had 19 assisted boarding houses in operation, although the number of residents is unknown.³⁷⁹ As we have seen above, assisted boarding houses are regulated by the *Boarding Houses Act 2012* (NSW) and do not have their own separate regulatory regime.

In Queensland, similar supported accommodation services are known as Level 3 Accredited Residential Services. As at September 2022, 43 premises were accredited as Level 3 residential services, with capacity for 1,547 people.³⁸⁰ These services are regulated by the *Residential Services (Accreditation) Act 2002* (Qld) and *Residential Tenancies and Rooming Accommodation Act 2008* (Qld).

Finally, in South Australia, these services are known as supported residential facilities (SRF). As SRF are licensed by individual local councils, it is unclear exactly how many are operating in South Australia at any point in time. However, an October 2021 survey by the Seniors Information Service Incorporated recorded 22 SRF³⁸¹ catering for pensioners with low means and no property, and people with disability. These SRF provide approximately 800 places. SRF are regulated by the *Supported Residential Facilities Act 1992* (SA).

The minimum standards for SRS and their equivalents also differ widely between jurisdictions.³⁸² Depending on the individuals living in these settings, federal legislation and standards may also apply, including those related to aged care, mental health and the NDIS.

In 2018, 79 per cent of the 3,142 SRS residents in Victoria had a disability, including psychosocial disability.³⁸³ However, not all of these residents with disability were NDIS participants. The NDIA estimates that around 1,600 NDIS participants live in SRS.³⁸⁴ As a result, many SRS are subject to NDIS regulation for some of their residents with disability, but not for others.

We heard evidence about gaps in the oversight of SRS.³⁸⁵ The NDIS Quality and Safeguards Commission (NDIS Commission) requires registered NDIS providers to undergo quality audits and comply with the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* (Cth). However, SRS may not be registered NDIS providers, even if they provide SIL. One of the most significant differences between registered NDIS providers and unregistered providers concerns reportable incidents.³⁸⁶ Reportable incidents include the death or serious injury to, or abuse or neglect of, a person with disability.³⁸⁷ The obligations under the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules*

2018 (Cth) (*Incident Management Rules*) only apply where the reportable incident occurred or is alleged to have occurred in connection with the provision of supports or services by a registered NDIS provider.³⁸⁸

In Public hearing 26, Ms Georgia Wilson told us about the death of her mother, Kaye, who was an NDIS participant living in an SRS at the time of her death. Kaye's death was not notified to the NDIS Commission as it was not a reportable incident for the purposes of the *NDIS Act* and the *Incident Management Rules*.³⁸⁹ Ms Wilson said she found it difficult to know who to complain to and how, and said that, at that time she had never heard of the NDIS Commission.³⁹⁰

In 2022 the NDIS Commission developed the NDIS Commission Compliance Strategy – SRS Services in Victoria³⁹¹ to address quality and safeguarding issues in SRS.³⁹² The issues of concern to the NDIS Commission reflect those raised at Public hearing 26.³⁹³

For people with disability living in general boarding houses, state and territory legislative requirements are much lower and oversight is inconsistent.³⁹⁴ Regulators should consider how standards, oversight and monitoring can be made consistent for boarding houses where applicable.

We discuss the NDIS Commission's responsibilities and functions further in Volume 10. We also examine safeguarding functions for people with disability who experience violence and abuse outside an NDIS service setting in Volume 11, *Independent oversight and complaint mechanisms*.

Improving standards and oversight

Minimum standards

Counsel Assisting, following Public hearing 26, submitted that:

The Royal Commission may consider recommending the Victorian Government amend the SRS Act and SRS regulations to introduce minimum standards to improve the quality and safety of accommodation and supports.³⁹⁵

As minimum standards for SRS equivalents vary across jurisdictions, we propose a broader recommendation that all minimum standards should be reviewed and strengthened in each jurisdiction, noting that some jurisdictions may already meet some of these proposed standards.

Evidence presented through our inquiry has highlighted five key areas that should be addressed through these reviews.

The development of support plans

First, we address the development of support plans for each resident in an SRS or equivalent setting. In Victoria, standards relating to support plans already exist.³⁹⁶ However, we heard in

Public hearing 26 that the development, application and review of support plans addressing the disability-specific support needs of residents in Victorian SRS were inconsistent. In some circumstances, SRS proprietors developed support plans with no input from residents about their specific support needs.³⁹⁷ Plans were not reviewed with SRS residents regularly,³⁹⁸ and the nature of supports described in these plans was vague.³⁹⁹

At a minimum, these plans should address personal care, financial management, medication management, use of restrictive practices, and the standard of food and accommodation to be provided. Support plans should also describe the frequency of the supports to be provided, how the supports will be provided, the needs and preferences of the person with disability, and a regular review of support needs within the plan.

Plans should articulate how services and supports provided to SRS residents by SRS proprietors are separate from services and supports provided through an individual's NDIS plan. Community visitors, the Public Advocate and others have expressed their concern that there is a lack of transparency as well as the potential for conflicts of interest in these dual arrangements.⁴⁰⁰ For example, 'Bel' said an NDIS service provider with the same operating address and common directors as Bel's SRS proprietor also received more than \$63,000 for assistance with daily life services. These services overlapped significantly with the services to be provided by the SRS proprietor.⁴⁰¹

Recordkeeping on how services are delivered

Second, SRS providers should keep up-to-date records of how services are delivered in line with support plans to allow regulatory bodies to more effectively monitor the quality of supports and services.

The nature of supports and services provided to SRS residents often fail to meet the standard expected by residents, and do not match what is set out in a support plan. For example, Bel's support plan indicated that she needed support with laundry twice weekly, support to manage the cleanliness of her bedroom, and for her bedsheets to be changed every fortnight.⁴⁰² In practice, she often struggled to get support to keep her room tidy, and would go for months without bedsheets.⁴⁰³

Clear processes for complaints and incident management

Third, clear complaints management and incident management processes should be established. This should include how complaints are reported to the central registration body, and the feedback loop for residents, their family and advocates.

For SRS in Victoria, minimum standards require providers to have a complaints officer and a complaints system that explains the procedures for receiving and responding to complaints from any person who wishes to raise a concern.⁴⁰⁴ In addition, providers are required to keep records of prescribed reportable incidents.⁴⁰⁵ However, the standards are inconsistent between states and territories. For example, in South Australia the *Supported Residential Facilities Act 1992* (SA) provides for complaints to be made to the relevant licensing authority. However, there are no requirements for providers to manage or respond to complaints and incidents directly.

Complaints and incidents must also be enabled by access to independent advocacy and community visitor supports. Another avenue of redress, where the complaint relates to a breach of agreement by the proprietor, would be to have a right to access the tribunal, which is explored in section 8.6.

Access to independent advocacy services

Fourth, residents should be guaranteed access to independent advocacy services through advocacy organisations and community visitor schemes. We heard in Public hearing 26 that the ability of advocacy organisations and representatives to access SRS to meet with residents and monitor the quality of accommodation and supports being provided was limited,⁴⁰⁶ despite the provision for the community visitors program in the *Supported Residential Services (Private Proprietors) Act 2010* (Vic).⁴⁰⁷ Jacob provided evidence that during COVID-19 lockdowns, he had no access to his usual advocacy supports.⁴⁰⁸ We also heard in Public hearing 26 that residents rely on independent advocates in both formal and informal roles to provide them with support to raise complaints with their SRS providers.⁴⁰⁹ This is a critical enabler of the complaints and incident management standards described above.

Independent support to find alternative, long-term accommodation

Fifth, residents should be supported to access independent advocacy services, focused on identification of alternative, longer term accommodation options.

This would recognise that SRS are unlikely to be the preferred housing option for some people with disability living in SRS. We have heard mixed views from people with disability regarding their preferred housing options. Jacob provided evidence that he liked the camaraderie of an SRS environment, because of his mental ill-health.⁴¹⁰ However, Bel preferred a smaller, community-based housing option with a small number of people.⁴¹¹ Bel said she would require support to seek alternative accommodation.⁴¹²

Monitoring and oversight

Monitoring and oversight frameworks for SRS and their equivalents also vary across jurisdictions. We recommend that monitoring and oversight practices be reviewed and strengthened in each jurisdiction, noting that some jurisdictions may already have some of these improved practices in place.

We have identified six priority reform areas that should be addressed through these reviews.

Registration requirement

First, all SRS and equivalent services should be required to register with the relevant state or territory department responsible for SRS standards.

In Victoria, all SRS are required to be registered with the Victorian Department of Families, Fairness and Housing before starting an SRS business.⁴¹³ The secretary registers an SRS following assessment of the suitability of the building to be used for the residence, and the proprietor, including their skills, financial capacity, operational arrangements and business plan.⁴¹⁴ However, central registration is not a key tenet of all SRS-equivalent regulatory schemes in other states and territories. In South Australia, SRF are licensed and monitored by local councils,⁴¹⁵ with limited central oversight.

Auditing of compliance with minimum standards

Second, all SRS and their equivalents should be required to undergo an initial audit when seeking registration, and ongoing audits (at minimum yearly) for monitoring and compliance purposes with all minimum standards. Audits should include direct engagement with people with disability residing in SRS and their equivalents, and should be undertaken centrally by the responsible state or territory department.

We have heard that the effectiveness of current regular monitoring and oversight mechanisms for SRS is variable. Dr Pearce described these mechanisms as having improved since the start of the COVID-19 pandemic,⁴¹⁶ but problems remain. Ms Wilson criticised the limited investigation undertaken in response to her mother's death in an SRS, and said monitoring of the provider only occurred in response to her formal complaint.⁴¹⁷

Ongoing monitoring audits should consider compliance with all minimum standards, focusing on:

- the use of and response to the use of restrictive practices
- the assessment of living conditions including squalor, maintenance and access
- the assessment of the quality of supports provided within SRS, in line with resident support plans
- the assessment of complaints, risk and incident management processes
- how people with disability are supported to transition from SRS into alternative housing options should they so wish.

Monitoring procedures for complaints and incidents

Third, jurisdictions should establish procedures to monitor services in response to complaints and incidents, including when and how investigations will be undertaken by the relevant state or territory department.

In Public hearing 26 we heard about inadequate responses from state regulators of SRS in Victoria. Dr Pearce provided evidence of significant delays in responses to community visitors' reports. Dr Pearce also described delayed responses to issues and complaints raised by community visitors that specific SRS were not compliant with minimum standards, despite significant concerns and later closure of those facilities.⁴¹⁸

Responding to outcomes from audits and investigations

Fourth, jurisdictions should specify compliance action required in response to outcomes from audits and investigations following complaints and incidents. This should include the circumstances in which registration may be suspended or cancelled.

In Victoria, responses to complaints and community visitors' reports have been inconsistent for SRS. The action taken in relation to community visitor scheme reports regarding Hambleton House, for example, was minimal, despite the serious nature of the issues raised.⁴¹⁹ Compliance and enforcement actions should be clear, consistently applied across SRS and equivalent service systems, and respond appropriately to any breaches in minimum standards.

Community visitor programs in supported residential services and their equivalents

Fifth, jurisdictions should establish in their monitoring frameworks the specific rights of community visitors to attend and report on standards within SRS and their equivalents. Community visitor programs allow residents to raise concerns directly with a visitor, and to ease the path for systemic issues to be raised with state and territory regulators, and with the NDIS Commission.⁴²⁰ For community visitors to play this role, their remit must extend to the relevant service systems. This is not always the case.

For example, in South Australia, the community visitor scheme extends to individuals receiving care in a mental health treatment centre, attending a community mental health facility, or living in state-run disability accommodation.⁴²¹ They can also visit an NDIS participant who is under the guardianship of the Public Advocate. Community visitors ceased visiting non-government disability accommodation service providers, supported residential facilities and day programs from May 2019. The South Australian Government took the view that State legislation authorising community visitors to visit homes managed by NDIS service providers would be inconsistent with the *NDIS Act* and therefore invalid to the extent of the inconsistency.⁴²²

Addressing gaps in service regulation

Sixth, in strengthening these monitoring and oversight functions, specific steps should be taken to address gaps in the regulation of services between different funded service systems. A cohesive regulatory framework needs to be in place for people with disability receiving supports and services in SRS and equivalent settings. We have heard that the regulatory environment for SRS is complex, with different responsibilities between regulatory schemes and no sole oversight between the NDIS and SRS systems and their respective regulators.⁴²³

Regulatory bodies should have adequate powers to effectively enforce all standards. Up-to-date records of infringements, enforcement action and remedies should be maintained centrally. Providers that are the subject of substantiated infringements should be notified to other relevant oversight bodies in the jurisdiction and the NDIS.

Recommendation 7.38 Minimum service standards and monitoring and oversight of supported residential services and their equivalents

This recommendation applies to state and territory government entities responsible for regulating privately operated and government-funded board and lodging-type supported accommodation services – including supported residential services (SRS) (in Victoria), assisted boarding houses (in New South Wales), Level 3 residential centres (Queensland), and supported residential facilities (SRF) (in South Australia). The entities should develop and implement minimum service and accommodation standards, strengthen oversight mechanisms, and increase service-level monitoring activities and compliance action, as follows:

- a. Minimum standards should require all SRS providers and their equivalents in other jurisdictions to:
 - develop support plans for each resident, covering personal care, financial management, medication management, and the use of restrictive practices
 - keep up-to-date records of how services are delivered in line with support plans, to allow regulatory bodies to more effectively monitor the quality of supports and services by regulatory bodies
 - establish clear complaint management processes, including how complaints are reported to the central registration body, and a feedback loop for residents, their family and advocates
 - guarantee access to independent advocacy services through advocacy organisations and community visitor schemes
 - support residents to access independent advocacy services focused on identifying alternative, longer term accommodation options in recognition of the transitional nature of these services.
- b. Monitoring and oversight mechanisms for SRS and their equivalents in other jurisdictions should:
 - require central registration for all SRS and equivalent services with the relevant state or territory department responsible for SRS standards
 - require all SRS and their equivalents to undergo an initial audit when seeking registration, as well as ongoing audits (minimum yearly) for monitoring and compliance with all minimum standards. Audits should include direct engagement with people with disability residing in SRS and their equivalents, and should be undertaken centrally by the responsible state or territory department
 - establish procedures to monitor services in response to complaints and incidents, including when and how the relevant state or territory department will undertake investigations

- establish compliance activities in response to audit results and investigations following complaints and incidents, including when registration will be impacted
 - include the specific rights of community visitor programs to attend and report on standards within SRS and their equivalents
 - be developed in consultation with other regulatory systems to identify and close regulatory gaps between schemes and settings including SRS, the National Disability Insurance Scheme, and in aged care and mental health services.
- c. Regulatory entities should have adequate powers to enforce all standards. Up-to-date records of infringements, enforcement action and remedies should be maintained centrally. The regulatory entities should notify substantiated infringements by providers to other oversight bodies with responsibilities for those providers, including the NDIS Quality and Safeguards Commission.
- d. States and territories should consider whether these recommendations should be implemented in relation to other forms of marginal accommodation for people with disability, including general boarding houses and caravan parks.

8.8. Preventing and responding to homelessness

Preventing people with disability experiencing homelessness

Lack of service integration

Throughout our inquiry, we have heard the personal accounts of people with disability who have experienced homelessness. A common theme was the failure of services to help them avoid falling into homelessness. In particular, people with disability can leave mainstream services or systems, such as health or places of detention, and enter homelessness because of the lack of coordination between or integration of different services.

In Public hearing 11, 'The experiences of people with cognitive disability in the criminal justice system', and Public hearing 27, 'Conditions in detention in the criminal justice system', we heard about the lack of accommodation planning and support for people leaving places of detention during this critical transition.

Ms Dorothy Armstrong, a woman with an acquired brain injury, recounted her expectation that she would be able to find her own housing on her release from prison. The only option available was unsustainable and after three months Ms Armstrong was homeless and ineligible for most temporary accommodation services.⁴²⁴ Mr Michael Haralambous, Senior Adviser, Research and Policy – Justice and Disability, Centre for innovative Justice at RMIT University, said that Ms Armstrong's experiences were not unique.⁴²⁵

In Public hearing 4, 'Health care and services for people with cognitive disability', researcher Dr Scott Avery provided an example of an elderly First Nations man who was discharged from hospital after a knee operation directly into homelessness, 500 kilometres from his home.⁴²⁶

In Public hearing 6, 'Psychotropic medication, behaviour support and behaviours of concern', we heard evidence that some people with disability with complex support needs were sometimes left at local hospitals by their accommodation service providers, with nowhere to go after being discharged.⁴²⁷

In Public hearing 11, Professor Eileen Baldry of the University of New South Wales explained the link between people's interaction with the criminal justice system and homelessness.⁴²⁸ Her research addresses cost savings of providing early intensive case management support services to access housing.⁴²⁹

In Public hearing 26, Ms Trina Jones, CEO of Homelessness NSW, and Ms Nada Nasser, State Director NSW/ACT/VIC of Mission Australia, called for improved exit planning from government services. They described this as critical to reducing the risk of homelessness among people with disability.⁴³⁰

The Productivity Commission's study report on the NHHA also noted cost-benefit research that supports increased investment in homelessness services.⁴³¹ It recommended that 'eliminating the exit of people from correctional facilities, health facilities and out-of-home care into homelessness' be included as a focus area.⁴³²

The need for improved coordination and integration between sectors was also emphasised in a research report prepared for the Royal Commission in relation to people with disability leaving prison and subsequently experiencing homelessness.⁴³³

Unclear accountability

There can be a lack of clarity about which agencies are responsible for supporting people with disability experiencing or at risk of homelessness.

The Applied Principles and Tables of Support (APTOS) was developed by the Australian Government with states and territories to provide clarity on responsibilities for the delivery of key services for people with disability.⁴³⁴ Public hearing 15, 'People with cognitive disability and the criminal justice system: NDIS interface', identified considerable uncertainty in determining the respective responsibilities of the NDIS and mainstream services, including those provided through the criminal justice system. These include a failure of support for people with disability transitioning from custodial settings into appropriate accommodation in the community.⁴³⁵

Under APTOS, responsibility for providing social housing, temporary housing and long-term housing rests with social housing providers and housing and homelessness services. In Public hearing 26, evidence showed that, in the case of NDIS participants, the NDIA is often unable to respond rapidly enough to prevent homelessness. The placement process ultimately depends on the availability of state public housing or emergency accommodation and therefore can be protracted.⁴³⁶ The APTOS is also discussed in Volume 5.

Early intervention to prevent homelessness

Following Public hearing 26, Counsel Assisting submitted that the Royal Commission consider making a recommendation that:

the Australian, state and territory governments improve system interfaces to successfully transition people with cognitive and/or psychosocial disability from crisis settings (including hospitals, and correctional and forensic facilities) and reduce risk of homelessness.⁴³⁷

This aligns with priorities under the NHHA. ‘People exiting institutions and care into homelessness’ is a ‘national priority homelessness cohort’; and ‘early intervention and prevention’ is a ‘homelessness priority policy reform area’.⁴³⁸

Counsel Assisting’s submission also aligns with recent inquiries in Australia that have emphasised the need for a national policy of ‘no exits into homelessness’. These inquiries include the Productivity Commission’s review of the NHHA⁴³⁹ and the House of Representatives Inquiry into homelessness in Australia.⁴⁴⁰

We accept that some people with disability leaving institutionalised settings such as places of detention require supports to access housing on their release to eliminate or reduce the risk of homelessness. These supports can include assistance to gain access to income support programs and to financial assistance to secure rental accommodation; advocacy provided by bodies such as tenancy rights services; employment opportunities available to people with disability; and formal and informal support networks. We also agree with Counsel Assisting that system interfaces should be improved to help successfully transition people from settings and reduce the risk of homelessness.

We heard in Public hearing 11 about Victoria’s promising approach to supporting NDIS participants to transition to adequate housing following release from custody. This involves the rollout of Justice Disability Advisers (funded by the Victorian Government) ‘to make sure that people in custody are navigating the justice/NDIS interface effectively’.⁴⁴¹ We recommend an appropriate lead agency be designated in each Australian jurisdiction to provide this additional support and system navigation for people with disability.

NDIS participants are able to apply to access three levels of coordination support depending on need.⁴⁴² This framework should be used to ensure all NDIS participants exiting any service setting have effective coordination support in place to transition successfully to stable and suitable housing.

Where a person is not an NDIS participant, responsibility for coordinating services should sit with the agency responsible for the service they are leaving. These include:

- health care services such as hospitals
- mental health services such as psychiatric facilities

- correctional facilities such as prisons
- out of home care systems.

The service from which the person is leaving will need to plan for and support the person with disability to transition to adequate housing and to have supports in place to prevent the person experiencing homelessness.

Recommendation 7.39 Preventing homelessness when people with disability transition from service or institutional settings

The Australian Government (including the National Disability Insurance Agency (NDIA)) and state and territory governments should commit to a policy of ‘no leaving into homelessness’ for people with disability.

The Australian Government (including the NDIA) and state and territory governments should establish or nominate a lead agency with responsibility for planning and coordinating the transition of people with disability from service or institutional settings (including health services, mental health services, correctional facilities, and out-of-home care) directly into safe and appropriate housing.

The lead agency should be the NDIA when the person is a National Disability Insurance Scheme (NDIS) participant (consistent with the role of the NDIS under Applied Principles and Tables of Support). If the person is not an NDIS participant, the lead agency should be the agency responsible for the service or institutional setting at the time the person leaves.

The role of the lead agency should include:

- developing and implementing individual plans for people with disability leaving service or institutional settings to identify housing, services and supports for a successful transition into secure housing
- ensuring supports can be put in place before a person with disability leaves the service or institutional setting
- coordinating the implementation of the plan until the person with disability has successfully transitioned to safe and appropriate housing.

Responding to homelessness

In Public hearing 26, people with disability gave evidence about their experiences of homelessness. While each account was unique, they each highlighted several barriers to exiting homelessness that were commonly experienced, most significantly the lack of affordable and appropriate housing. Witnesses also spoke about barriers to accessing the supports needed to enable people to transition successfully into adequate long-term housing. These barriers particularly affect people with disability with higher, more complex support needs.

We also heard evidence from the NSW Department of Communities and Justice about the government's New South Wales Homelessness Strategy 2018–2023. The strategy acknowledges 'mental health issues' as a risk factor for homelessness.⁴⁴³ However, people with disability are not expressly identified as being at risk.⁴⁴⁴

Lack of safe, appropriate and affordable housing

While housing affordability stress has affected low and moderate income Australians of all abilities, people with disability face additional barriers in accessing suitable housing.⁴⁴⁵

Almost 40 per cent of people with disability and 49 per cent of people with a 'severe or profound' disability have a low income (weekly personal income of \$383 or less).⁴⁴⁶ According to Anglicare, fewer than 0.1 per cent of rental properties in the private market are affordable to people with disability on the Disability Support Pension.⁴⁴⁷

As at December 2022, the maximum rate of CRA for a single Disability Support Pension recipient was \$145.80 per fortnight (for people without dependent children).⁴⁴⁸ The majority of Disability Support Pension recipient households also receiving CRA (61 per cent) paid more than 30 per cent of their income on rent.⁴⁴⁹ Fourteen per cent paid more than 50 per cent. Notwithstanding investment in rental assistance,⁴⁵⁰ housing affordability continues to be a significant issue for people with disability. In the 2023–24 budget, the Australian Government announced its plan to increase the maximum rates of CRA by 15 per cent.⁴⁵¹

In the opinion of Ms Jones, New South Wales needs 15,000 new social housing dwellings annually (around 40 per cent of all residential dwellings being built annually) to meet current and future needs.⁴⁵² She estimates that of approximately 35,000 new residential dwellings built annually in New South Wales, only 200 to 700 houses (around 2 per cent) are for social housing.⁴⁵³ As at 2022, Ms Jones estimated it will take 70 years at the current rate of investment to clear the social housing waiting list in the state.⁴⁵⁴

Finding affordable, adequate housing is a challenge for many people living on low incomes. But for people with disability with accessibility needs, finding affordable, adequate and accessible housing is even more difficult.

For many witnesses, their pathway to homelessness was linked to a lack of appropriate and safe housing and support services. In Public hearing 26, we heard from Claudia. She has a physical disability and has experienced mental health issues, including depression.⁴⁵⁵ Her parents separated when she was 10 years old.⁴⁵⁶ Initially, she lived with her mother.⁴⁵⁷ Around the time she was in year 9, Claudia moved to live with her father and his then girlfriend. This option was not much better.⁴⁵⁸ She struggled, feeling she did not belong

and that there was no safe place to go. She experienced homelessness for the last two years of high school, alternating between ‘sleeping in [her] car, couch surfing at friends’ houses and drifting around’.⁴⁵⁹

Barriers to accessing support

Some people with disability need to navigate different systems with different requirements to access services and supports, including the NDIS, the housing sector, and the health system. Varying definitions of ‘disability’ across programs and services can further complicate the process.⁴⁶⁰

Some people with disability experiencing or at risk of homelessness have difficulty obtaining medical information required to access support. Specialist assessments can be prohibitively expensive. For example, a neuropsychological assessment can cost more than \$2,000.⁴⁶¹ Mr Shane Jakupiec, Regional Manager New South Wales at NEAMI National, an organisation providing mental health, homelessness and suicide prevention services, discussed the barriers people with disability can experience when trying to access services. He said general practitioners ‘typically will not support someone’s application for a medical assessment if they’ve not met them before’.⁴⁶²

The need for intensive, person-centred support

Some people with disability need intensive support to effectively transition into and sustain secure housing.⁴⁶³ Homelessness services endeavour to support people with disability to navigate the various systems they encounter. However, the extent to which support can be provided is limited by available resources. Consequently, homelessness services have to turn away some people needing support or are unable to provide assistance.⁴⁶⁴ For example, Australian Institute of Health and Welfare (AIHW) data indicates that 44 per cent of people with disability accessing SHS are homeless on service entry, and 34 per cent remain homeless on service exit.⁴⁶⁵ Ms Jones referred to the inadequacy of funding for these services:

the Productivity Commission has found [investment] averages about \$36 per day ... to support a person experiencing homelessness. We know that that is simply not enough to actually meet the complexity of need, [and] the coordination and the practical support needed to help people to exit homelessness.⁴⁶⁶

Services can also lack adequate levels of sustained support to assist people with disability to exit homelessness or sustain a tenancy.⁴⁶⁷

Not every person with disability experiencing homelessness who accesses homelessness services is seeking housing. Some people do not want, or are not able, to take up housing options. For example, we heard from ‘Jack’, who is in his 70s and sleeps on trains and in various spots in Sydney.⁴⁶⁸ Jack has not applied for social housing because he said he feels guilty about taking a place that someone else could access.⁴⁶⁹

There may be many reasons for reluctance or a decision not to take up housing when it is available. This can include ‘previous difficult experience or maybe they don’t believe that the solution is going to fit their need’,⁴⁷⁰ and trauma.⁴⁷¹ Ms Jones said:

For those that would say, ‘I don’t want to access a house’, when you unpack what that actually means is, ‘I don’t want to be re-traumatised by a system that can’t meet my needs in a way that’s accessible for me to communicate at a time in my life when I’m in crisis and stress’.⁴⁷²

To overcome this barrier, we heard that services need to ‘start where the person is at’. For example, if the person wants to access food and companionship, then the homelessness service starts there and then seeks to ‘build trust and rapport’.⁴⁷³

Pathways out of homelessness

We have heard that there are limited pathways out of homelessness for people with disability. Among other things, this can be due to the person not being ‘housing ready’, difficulties navigating multiple services or systems, or the extent of support that they require. To meet Australia’s obligation under the *CRPD* to ensure that people with disability have access to adequate housing, services need to address these barriers.

As discussed in section 8.4, the Australian Government is developing a National Housing and Homelessness Plan – a 10-year strategy to identify actions to address the significant challenges facing the housing and homelessness sectors.⁴⁷⁴ The plan will replace the NHHA from 2024.⁴⁷⁵ It will consider the specific housing and homelessness challenges faced by groups who tend to experience disadvantage.⁴⁷⁶ The plan is an opportunity to increase the focus on people with disability, including approaches to pathways out of homelessness.

Intensive support

In Public hearing 26, the Royal Commission heard from Ms Jones about the unmet demand for homelessness support services for people with disability.⁴⁷⁷ Ms Jones said the sector does not have the resources to ‘meet the complexity of need, [and] the coordination and practical support needed to help people to exit homelessness’.⁴⁷⁸

States and territories are required to at least match Australian Government funding under the NHHA. In the 2020–21 financial year, states and territories were allocated \$129 million under the NHHA, but reported they had spent \$618 million in NHHA funding for homelessness and an additional \$913 million for homelessness under other programs.⁴⁷⁹ The NHHA identifies a funding amount for ‘homelessness’ generally but does not allocate funds to any particular priority cohort, such as people with disability.⁴⁸⁰ The current level of funding to SHS is insufficient to deliver the flexible and sustained services some people with disability need to transition into and maintain adequate longer term housing.

We recommend that the Australian Government review the adequacy of funding for homelessness, with particular regard to the cost of providing more intensive homelessness support for people with disability and complex needs, to address current levels of unmet demand. This is consistent with the Productivity Commission's recommendations on the need to increase funding for homelessness services.⁴⁸¹

We note that for the 2023–24 financial year, the Australian Government has allocated an additional \$65 million for states and territories to address homelessness under the NHHA.⁴⁸²

Housing First approaches

Effective engagement with services and supports can be dependent on access to adequate housing, particularly for people with psychosocial and/or cognitive disability. For example, in Public hearing 26, Mr Jakupiec described how having permanent housing reduces burdens associated with accessing other support services.⁴⁸³

This is the basis upon which Housing First approaches have been developed. The Housing First model was developed from the Pathways to Housing model (New York) and encompasses principles such as: ⁴⁸⁴

- rapid access to permanent housing that is not contingent on engagement with services
- access to services and supports that are genuinely person-centred, responding to unique, individual needs
- choice and control over the location and type of housing
- supporting recovery and wellbeing, including social and community integration, and harm reduction in relation to substance use disorders or addictive behaviours
- social and community integration and participation, with opportunities for social engagement through employment, and vocational and recreational activities.

Housing First approaches are evidence-based and, according to the Productivity Commission, are considered best practice.⁴⁸⁵ This is particularly the case for people with complex needs.⁴⁸⁶ The Productivity Commission's analysis of available data across eight Housing First sites in Australia and internationally found that after one year between 79 per cent and 97 per cent of participants remained housed; and after three years between 62 per cent and 71 per cent remained housed.⁴⁸⁷

Housing First models have been adopted in Finland,⁴⁸⁸ Canada and New Zealand.⁴⁸⁹ In Australia, most states and the Australia Capital Territory have trialled or adopted similar models. Many support a Housing First approach as part of their housing and homelessness strategies.⁴⁹⁰ Housing First responses were delivered during COVID-19, such as the Together Home program (New South Wales) and From Homelessness to a Home (Victoria).⁴⁹¹ In Public hearing 26, Ms Jones noted the success of the Together Home program in supporting people to exit homelessness.⁴⁹² Ms Zoe Dendle, Acting Executive Director, Housing, Homelessness and

Disability at the NSW Department of Communities and Justice, reported that, as at 6 May 2022, 770 people were being housed through the Together Home program in New South Wales. Of those people, 12 per cent were people with disability.⁴⁹³

We heard evidence of promising programs that include components of the Housing First approach. These included the Supported Transition and Engagement Program (STEP), a New South Wales program that provides long-term support to people who have been 'sleeping rough' for extended periods. STEP offers 18 months to three years of support for clients participating in the program.

The STEP to Home program was formally evaluated by the Centre for Social Impact in 2021.⁴⁹⁴ The evaluation findings indicated positive outcomes for participants across all the measures of success associated with Housing First approaches. This included increases in participants' housing stability, retention, security and safety; mental health and quality of life; employment; and connection with family, friends and community.⁴⁹⁵ Mr Jakupiec reported the project's 'amazing success' in achieving permanent housing outcomes. He noted, however, that it still may not provide the level of support required for someone with 'long-term complex physical and mental health issues'. In Mr Jakupiec's view, these people require a higher level of support.⁴⁹⁶

By providing rapid access to affordable, safe and secure housing that is not reliant on a person being 'housing ready', the Housing First approach supports the realisation of Australia's international human rights obligations.⁴⁹⁷ We recommend the Australian Government expand Housing First approaches for people with disability experiencing or at risk of homelessness through the National Housing and Homelessness Plan.

Our recommendation is consistent with those made by other inquiries and reports, including the Productivity Commission's report into the NHHA.⁴⁹⁸ The Productivity Commission recommended expanding Housing First as 'a key reform area in the next [NHHA] Agreement'. The recommendation is also consistent with recommendations made by the House of Representatives Standing Committee on Social Policy and Legal Affairs Inquiry into homelessness in Australia. In particular, this inquiry recommended that the Australian Government incorporate Housing First principles into its agreements with state and territory governments.⁴⁹⁹

Service coordination

The number of homelessness service providers across different sectors (including health and human services) has the potential to cause confusion for people with disability experiencing or at risk of homelessness. No wrap-around or connective approach exists to link the homelessness supports that a person with disability might need from state or territory agencies with Australian Government supports such as the NDIS. This can result in people with disability missing out on the full suite of supports and services. A centralised homelessness advice centre or service might ensure people are receiving the maximum support to which they are entitled.⁵⁰⁰

The homelessness sector witnesses in Public hearing 26 said services designed to assist people with disability experiencing or facing homelessness tend to be disconnected and to work in silos. They called for the coordination and integration of services to improve supports and outcomes for people experiencing or facing homelessness.⁵⁰¹

Following Public hearing 26, Counsel Assisting submitted that the Royal Commission may consider making a recommendation that ‘Australian, state and territory governments adequately fund free, independent legal advice and advocacy services for people with disability who are at risk of homelessness or who are homeless’.⁵⁰² We agree with this submission and recommend that the Australian Government consider the provision of this free service under the National Housing and Homelessness Plan.

Recommendation 7.40 Address homelessness for people with disability in the National Housing and Homelessness Plan

In developing the National Housing and Homelessness Plan, the Australian Government, working with state and territory governments, should:

- a. identify people with disability, particularly people with intellectual disability or cognitive impairment, as a discrete cohort or cohorts for intensive homelessness support, recognising their needs, circumstances and diversity
- b. review the adequacy of funding for homelessness, with particular regard to the cost of providing more intensive homelessness support for people with disability and complex needs, and current levels of unmet demand
- c. expand pathways and support for people with disability out of homelessness, including through Housing First programs
- d. consider establishing free, independent legal advice and advocacy services for people with disability experiencing homelessness to help them navigate the different homelessness supports to which they are entitled at state or territory and Australian Government levels.

Endnotes

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- 2 Victorian Disability Services Commissioner, Submission, 30 June 2020, SUB.100.00805, p 47.
- 3 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Disability and the Labour Force, 2018*, Catalogue number 4430do010, 24 July 2019, Table 8.1.
- 4 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Disability and the Labour Force, 2018*, Catalogue number 4430do010, 24 July 2019, Table 8.1.
- 5 Australian Institute of Health and Welfare, *People with disability in Australia 2022*, Catalogue Number Dis 72, 5 July 2022, Employment supplementary data tables, Table EMPL5.
- 6 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Disability and the Labour Force, 2018*, Catalogue number 4430do010, 24 July 2019, Table 8.1; Australian Bureau of Statistics, *Survey of Disability, Ageing and Carers: Aboriginal and Torres Strait Islander People with Disability*, Catalogue 4430DO090, 11 June 2021, Table 5.1.
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- 8 Committee on the Rights of Persons with Disabilities, *General comment no. 5 (2017) on living independently and being included in the community*, UN CRPD/C/GC/5 (27 October 2017), [16(a)].
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- 15 *International Covenant on Economic, Social and Cultural Rights*, opened for signature 19 December 1966, 993 UNTS 3 (entered into force 3 January 1976).
- 16 *International Covenant on Economic, Social and Cultural Rights*, opened for signature 19 December 1966, 993 UNTS 3 (entered into force 3 January 1976), arts 2(1) and 11(1).
- 17 Committee on Economic, Social and Cultural Rights, *General comment no. 4 (1991) on the right to adequate housing (art 11(1) of the Covenant)*, 6th sess, UN Doc E/1992/23, (13 December 1991).
- 18 Committee on Economic, Social and Cultural Rights, *General comment no. 4 (1991) on the right to adequate housing (art 11(1) of the Covenant)*, 6th sess, UN Doc E/1992/23, (13 December 1991), [7].
- 19 Committee on Economic, Social and Cultural Rights, *General comment no. 4 (1991) on the right to adequate housing (art 11(1) of the Covenant)*, 6th sess, UN Doc E/1992/23, (13 December 1991), [8].
- 20 *International Convention on the Elimination of All Forms of Racial Discrimination*, opened for signature on 7 March 1966, 660 UNTS 195 (entered into force 4 January 1969).
- 21 *Convention on the Elimination of All Forms of Discrimination Against Women*, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).
- 22 *Convention on the Rights of the Child*, opened for signature on 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).
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- 39 Exhibit 26-17, 'Joint Statement of Debbie Mitchell and Matthew Flavel', 1 August 2022, at [110].
- 40 Exhibit 26-17, 'Joint Statement of Debbie Mitchell and Matthew Flavel', 1 August 2022, at [33].
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- 54 National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018 (Cth) s7(1). This is subject to an exception for certain aged care providers – s7(4).
- 55 *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2020* (Cth) s 25.
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- 501 Transcript, Nada Nasser, Public hearing 26, 30 August 2022, P-133 [4–8]; Transcript, Shane Jakupiec, Public hearing 26, 30 August 2022, P-128 [44] – P-129 [10].
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9. The future of group homes

Key points

- People with disability in group homes can experience various forms of violence, abuse, neglect and exploitation. Current practices in group homes can fail to keep people with disability safe and empowered to exercise choice and control, with a lack of opportunities to develop and build capacity.
- Group homes have also failed to realise the rights of people with disability regarding homes and living under articles 19 and 28 of the *Convention on the Rights of Persons with Disabilities*.
- In this chapter, we recommend reforms to the group home model and increased options for, and supply of, inclusive housing for people with disability. This includes prioritising the adoption and implementation of the NDIS Homes and Living Framework.
- We recommend that these reforms to improve the range of available housing should be accompanied by a dedicated pathway to support people with disability to understand and explore their housing options, make decisions about transitioning to the housing of their choice, and receive support for that transition.
- All Commissioners strongly support the adoption of more inclusive and alternative models of housing for people with disability.
- However, Commissioners Bennett, Galbally, Mason and McEwin believe that the group home model segregates people with disability on the basis of disability, does not uphold the rights of people with disability, and cannot realise inclusive equality. They recommend the development of a 15-year national roadmap to phase out all group homes. They share the view that reforming aspects of the group home model should only be seen as an interim measure.
- Commissioner Ryan believes that group homes should be phased out over a longer, generational timeframe.

9.1. Introduction

[Group homes] are like a little island. The only people that step onto that island are families, people that have responsibilities like coordinators or counsellors or whatever, or staff. 'Heidi's' lived in the same house for 20 years, where she is now and there is absolutely no contact with the resident in the street. It is like they don't belong in society.¹

Group homes are a form of accommodation that is 'distinguished from other houses by having four or five longterm residents'² and where services and supports are provided to residents with disability.

We heard evidence group homes have failed to realise the rights of people with disability regarding homes and living, recognised by articles 19 and 28 of the *Convention on the Rights of Persons with Disabilities (CRPD)*. These articles are set out in Chapter 8.

In Public hearing 3, 'The experience of living in a group home for people with disability', Ms Sarah Forbes, Advocacy Manager at Victorian Advocacy League for Individuals with Disability, stated that residents of group homes:

have rights that they don't know about, and they don't exercise. They also have experiences of attempting to exercise their rights and not being respected. Or in fact being retaliated against for doing that. Being laughed at for suggesting that they should be able to make certain choices. Having certain choices used as collateral, as punishments.³

For recommendations to improve tenancy protections for people living in group homes and allow tribunals to examine cases of retaliatory eviction, see Recommendation 7.37.

Current practices in group homes can fail to keep people with disability safe and empowered to exercise choice and control, with opportunities to develop and build capacity. Major improvements are needed in the practices of group homes. We all strongly support the expansion of alternative housing options for people with disability to provide greater choice. We also recognise the importance of clear and supported pathways to help group home residents transition to living independently within the community, if they choose to do so.

However, four Commissioners – Ms Barbara Bennett PSM, Dr Rhonda Galbally AC, Ms Andrea Mason OAM and Dr Alastair McEwin AM – believe that the current group home model will never realise the rights of people with disability. They believe that the model should be phased out entirely over a period of 15 years, using a grandfathering approach so that nobody would have to leave a group home over their lifetime. From this position, new housing options should be made available for people with disability looking to live independently.

Similarly, one Commissioner – the Honourable John Ryan AM – believes the current group home model should be phased out, but that a longer time period may be required, over a generation. Further information on these differing views about the future of group homes is presented below.

We are all conscious that any consideration of alternatives to group homes must take account of the lessons from the deinstitutionalisation process that encouraged the emergence of the group homes model. Well-intentioned reforms do not necessarily achieve all the desired outcomes and can produce serious unforeseen adverse consequences. Even reforms that are almost universally acclaimed, such as providing support to people with disability who choose to live alone, may not guarantee that they will be safe from violence, abuse, neglect or exploitation. Unless reforms are accompanied by rigorously enforced safeguards and standards of service, tragedy can result.

Exposure to harm in group homes

The Royal Commission heard evidence across a range of public hearings about the violence, abuse, neglect and exploitation that people with disability can experience in some group homes.

In Public hearing 3, Professor Patricia Frawley, an Associate Professor of Disability and Inclusion at Deakin University, described violence, abuse, neglect and exploitation of people with disabilities as ‘pervasive’ in group homes. She noted that it occurs ‘almost as part of the day-to-day practices in these environments’.⁴

We heard how people with disability have experienced violence and abuse from staff⁵ and co-residents⁶ in the form of physical violence, sexual assaults, sexual exploitation, psychological or emotional abuse, and harassment. We also heard about the use of coercive control and financial exploitation by staff members⁷ and the use of chemical and physical restraints. The evidence reveals examples of neglect, such as failures to protect people’s safety, safeguard their health, maintain proper hygiene, and provide support to learn about relationships, life skills and different options for living.

Professor Frawley said this normalisation of abuse and neglect in group homes is underpinned by a lack of understanding of key concepts like respect, dignity and human rights.⁸

Australia’s Disability Strategy 2021–2031 (ADS) acknowledges people with disability living in institutional contexts such as group homes are more likely to experience violence and fare worse than in other housing contexts.⁹

In 2022, the NDIS Quality and Safeguards Commission (NDIS Commission) conducted the Own Motion Inquiry into Aspects of Supported Accommodation in the NDIS (Own Motion Inquiry). The *Own Motion Inquiry into aspects of supported accommodation* Inquiry report (*Own Motion Inquiry report*) indicated that Australians living in group homes are subject to sexual misconduct, coercion, serious injury, abuse and neglect.¹⁰ The report examined close to 7,000 reportable incidents and complaints, in relation to seven of the largest Supported Independent Living (SIL) providers.¹¹ These complaints about supports were notified to the NDIS Commission between

1 July 2018 and 30 September 2022. The reportable incidents and complaints included:¹²

- 1,742 incidents of serious injury, 1,716 incidents of abuse and 1,293 incidents of neglect of a person with disability
- 960 incidents of unlawful physical contact and 112 incidents of unlawful sexual contact of a person
- 122 incidents of sexual misconduct, including exposure to pornographic material by a support worker
- 324 incidents involving the death of a person.

It is likely that this is an underestimate of incidents, given the barriers to disclosure and reporting for people with disability in institutional settings. Notably, 85 per cent of the complaints about the NDIS supports and services delivered by the seven providers were received from family members or friends of a person with disability, or from an advocate, support worker or other provider. Only 3 per cent of the complaints were made by a person with disability.¹³ Experiences of violence, abuse, neglect and exploitation in group home settings are further discussed in Volume 3, *Nature and extent of violence, abuse, neglect and exploitation*.

9.2. Key issues in group homes

Through our inquiry, we have heard about a range of practices and approaches that have caused or increased the risk of harm in group homes for people with disability. Key areas that have been highlighted in the evidence include lack of choice and control over daily living, as well as choice of support service provider; the negative impact of institutional practices and segregated living; and inadequate oversight and monitoring mechanisms.

Lack of choice and control

National Disability Services (NDS), Australia's peak body for non-government disability service organisations, addressed choice and control in its response to Counsel Assisting's submissions to Public hearing 32, 'Service providers revisited'. NDS emphasised that service providers are required to actively involve people with disability, their families and supporters in all decisions about where and with whom they live, what supports they receive and who provides supports. NDS considered this active involvement was critical to advance the human rights of people with disability, and to prevent violence, abuse, neglect and exploitation.¹⁴

Group homes can place significant limitations on the choice and control people with disability have over where they live, who they live with, how they live and who provides their support. In Public hearing 3, we heard that in group homes people with disability can be denied choice and control:¹⁵

One size fits all is the wrong paradigm ... the five of you are going to live together. You're going to share the one bathroom. You've going to have meals at the same time. You're going to go to bed at the same time. You're going to eat the same kinds of food. Well, I mean, how is that reflective of human dignity and choice?¹⁶

Lack of choice and control was also highlighted in responses to our *Group homes issues paper*.¹⁷

Choice about where to live, and with whom

People with disability can have little choice about where and with whom they live in group homes.

In her evidence provided in Public hearing 3, Dr Colleen Pearce AM, the Victorian Public Advocate, said there is ‘no engagement of people who are living in [group] houses around who their co-residents might be’.¹⁸ She said that the lack of choice and limited availability of accommodation can mean a victim of violence continues to live in the same house as the perpetrator. We heard about one such situation where a woman was sexually assaulted by another resident. Despite the incident being reported to the police and the Disability Services Commissioner, the two people were still living in the same house 18 months later.¹⁹

In the same hearing, the Victorian Disability Services Commissioner, Mr Arthur Rogers, said the housing supply shortage and the desperate circumstances of residents meant that ‘there were compromises about who they lived with and the compatibility of residents in those homes’.²⁰ He stated that ‘this leads to lots of troubles which the Commission has already heard about’.²¹

Control over how to live and who provides support

We heard that people living in group homes usually have little opportunity to choose who they will live with.²² They are also given little if any choice and control over many aspects of their day-to-day living.

In Public hearing 3, Dr Pearce stated that a ‘one-size-fits-all’ model, in which people have no choice about the food they eat or when they can use the bathroom and go to bed, is a contributing factor to violence and abuse in group homes.²³ Mr Rogers said his office often received complaints about the routine of the home being prioritised over a person’s individual needs.²⁴ He stated:

an example of this is where one person has an eating disorder and requires restricted access to food, resulting in all residents being subjected to the same, and for the residents, unnecessary restrictions. People with disabilities have a right to receive individualised support services that are flexible and adaptable to the person, and not the other way around.²⁵

We heard about the importance of choice of support workers, including the gender of support workers.²⁶ This was particularly the case for those providing intimate personal care. Yet group home residents have little choice about their provider of disability support services, primarily because NDIS funding mechanisms, such as Specialist Disability Accommodation (SDA) and SIL, encourage service providers to pool disability service funding and accommodation funding. These funding mechanisms are described in Chapter 8.

In Public hearing 3, both Sam Petersen, a person with lived experience of disability, and Dr George Taleporos, Summer Foundation’s Policy Manager, gave evidence about the importance of people with disability having choice about who provides support services.²⁷

Ms Petersen emphasised the importance of a trust-based relationship between resident and support worker, where a resident feels comfortable, due to the intimacy of this support.²⁸

Professor Sally Robinson, Professor of Disability and Community Inclusion at Flinders University, observed that it is ‘very difficult to feel safe when you don’t know who’s coming through the door’.²⁹ She also said that it is ‘not okay to have 30 people go through someone’s house in a week’.³⁰ Dr Peter Gibilisco stated that people entering his room without his permission or knowledge make him feel unsafe.³¹

Institutional practices

Despite Australia’s ratification of the *CRPD*, people with disability continue to live in institutionalised residential settings.³² This is particularly the case for people with disability who have higher support needs.

Institutionalisation in Australia

Australia has a history of accommodating people with disability in large, segregated institutions. Many people with disability who lived in these facilities were given no choice where to live, denied basic human rights and had little or no access to the wider community.³³ They were isolated and at risk of violence, abuse, neglect and exploitation.³⁴

This institutional approach began to decline in the 1960s. In Public hearing 3, we heard about the combined factors that drove this process of deinstitutionalisation³⁵ in Australia, including:³⁶

- mounting evidence of the overcrowding, disease, abuse, neglect and restriction of individual freedoms that were taking place in large institutions
- the disability rights movement in the 1960s
- the ideology of ‘normalisation’ – that people with disability should have opportunities as close as possible to those enjoyed by people without disability
- broader reforms in the delivery of human services by governments and a shift away from segregated services
- medical advances, primarily related to treatment of psychosocial disability.

While this move away from large, residential institutions for people with disability better aligns with article 19 of the *CRPD*, there have been significant gaps in alternative accommodation and support services. In Public hearing 3, Dr Ilan Wiesel, an academic and expert witness, pointed out that ‘deinstitutionalisation’ in Australia coincided with a dramatic increase in the number of people with disability who were homeless or incarcerated in prisons. Community housing and services were inadequate to meet accommodation needs.³⁷ As a result, many people ‘continue to live in other types of institutional and congregate settings’ such as aged-care nursing homes, group homes and ‘clustered’ smaller facilities.³⁸

Institutional practices in group homes

Before group homes came to be the dominant form of housing support for people with disability, many people with disability lived in large residential centres, some of which housed hundreds of people. We have heard that regardless of their smaller scale many group homes are in fact ‘mini institutions’ and fail ‘on many accounts’ to ‘deliver the quality of life that had been expected from small group dwellings’.³⁹

The *Guidelines on deinstitutionalization (2022)*⁴⁰ formulated by the Committee on the Rights of Persons with Disabilities (CRPD Committee) set out the defining elements of institutions:⁴¹

- a lack of control over day-to-day decisions, and a lack of choice about who individuals live with
- an obligation to share assistants with others and having no or limited influence over who provides the assistance
- a rigid routine that does not account for personal will and preferences, and identical activities being held in the same place for a group of individuals under the control of an authority
- a paternalistic approach to providing services, and supervised living arrangements
- isolation and segregation from those who live an independent life in the community
- a disproportionate number of persons with disabilities in the same environment.

All these elements of institutionalisation can be present in group homes, and in other forms of supported accommodation, such as the supported residential services (SRS) described in Chapter 8.

We heard that one rationale for the group home model is ‘economies of scale’.⁴² That is, it was cheaper for the government or a service provider to provide support to five or six residents, requiring one or two staff members at a time, rather than provide one-to-one support for residents living on their own.⁴³ This can lead to standardisation of care, designed to meet the preferences of staff rather than residents, and can result in neglect of individual care needs in favour of efficiency.⁴⁴ For example, we heard of choice denied to residents of group homes including when and what they ate, who could visit and when they went out.⁴⁵

Standardised care can occur even when the values of an organisation ‘support social inclusion’ and ‘social participation’.⁴⁶ We heard the reason for this can be:

misalignment between the values of staff who held the power in the group home ... [who] didn’t see those values as being things that they could actually implement. They didn’t understand those values and they didn’t think they were realistic.⁴⁷

Some group homes develop ‘punitive cultures’ towards residents. In Public hearing 3, ‘AAG’ described a ‘punishment chart’ which recorded when ‘AAF’, her daughter, had not behaved according to the rules or a request and documented the punishment to be imposed on her.⁴⁸

She said:

There was no way she could win because what would happen was the staff that was on first thing in the morning if my daughter didn't behave, then there was – there was a consequence of that which might have meant she wasn't allowed to have her meals with the other residents, etcetera. And it was a cumulative thing. When the next person came on duty, they added to that. Then the next person came on duty; they added to that. So by the time she got to the end of the day, she was defeated.⁴⁹

AAG contrasted this with her daughter's current service provider. She described the house supervisor as 'wonderful' and said she feels like she and her daughter are being treated with respect.⁵⁰

This evidence raised questions about the extent to which frontline staff have the training and/or aptitude to understand disability and the needs and preferences of the people with disability they support. The examples raised through our inquiry suggest that this role can often be seen as 'behaviour management' rather than support to live independently. This also highlights the lack of sufficient public scrutiny inherent in the current group home model, where a punitive culture can go unchecked.

Volume 10 further examines how organisational culture and subcultures can encourage or discourage violence, abuse, neglect and exploitation. It also examines the role of the NDIS Commission's practice standards and auditing processes.

Exclusion from the broader community

In Public hearing 3, Ms Rosemary Kayess noted that it is important for people with disability to be able to access all aspects of the broader community.⁵¹ She said that by accessing the community, people with disability can build trusting relationships with a variety of people.⁵² The relationships of people with disability living in closed environments are limited largely to support workers and their co-residents.⁵³ Ms Kayess expressed her view that 'it is access to the community at large that reduces the risks for exploitation, violence and abuse'.⁵⁴

Evidence in Public hearing 6, 'Psychotropic medication, behaviour support and behaviours of concern', revealed that lack of informal networks and restricted access to families can lead to escalating behaviours of concern.⁵⁵ We also know from witnesses at Public hearing 14, 'Preventing and responding to violence, abuse, neglect and exploitation in disability services (South Australia)' and Public hearing 17, 'The experience of women and girls with disability with a particular focus on family, domestic and sexual violence', that people receiving supports from a single provider or support person are at greater risk of harm.

For people living in group homes, informal support networks, including peer support groups and volunteers, can work to counter social isolation, keep people safe and enhance choice and control.⁵⁶ In these situations, people within informal networks can observe situations and behaviours and potentially prevent or respond to violence, abuse, neglect or exploitation.⁵⁷

Similarly, we heard that the best safeguard for people with disability living alone is to have relatives and friends who can readily provide support if a risk of harm threatens to materialise.⁵⁸

Volume 6 includes further analysis of the significance of informal networks of relationships and the critical role of advocacy. In Volume 10, we make recommendations about improving access to advocacy for people using disability services who are at heightened risk.

Inadequate oversight and monitoring

The NDIS Commission regulates all providers of supports and services for people with disability under the NDIS. The NDIS Commission has a range of functions, including ‘to secure compliance with the NDIS Act through effective compliance and enforcement arrangements, including through the monitoring and investigation functions conferred on the Commissioner’.⁵⁹

This is a compliance-based system, by which we mean a system of oversight that concentrates ‘on the measurement of policy and procedure more than implementation and engagement’.⁶⁰

Compliance-based systems of oversight and monitoring tend to focus on more serious incidents rather than cumulative day-to-day failures that form the experience of people with disability and that can result in abuse, and neglect in particular. For example, Professor Robinson stated that a ‘compliance-based approach may be unlikely to uncover more subtle abuses which appear in people’s everyday lives’.⁶¹

Given many people living in group homes have limited informal networks, effective external oversight is critical to ensure that services and practices that perpetrate violence, abuse, neglect and exploitation are identified and addressed. Professor Robinson suggested this could be addressed through ‘a process of qualitative evaluation involving the perspectives of people with disability [to] replace the current system of auditing’.⁶²

Volume 10 examines the oversight and monitoring of disability services, including disability support in group homes. The Royal Commission makes several recommendations to strengthen the quality and safety of disability service provision in this volume. This includes embedding human rights into service delivery and strengthening the capacity and capability of people with disability to speak up about violence, abuse, neglect and exploitation.

Volume 11 examines broader oversight mechanisms that strengthen safeguards to prevent and better respond to violence, abuse, neglect and exploitation. This includes our consideration of community visitor schemes, independent complaint reporting, referral and support mechanisms, adult safeguarding functions, disability death review schemes, reportable conduct schemes and the *Optional Protocol to the Convention Against Torture*.

9.3. Improving group homes

People with disability can experience harm in group homes for many reasons, including inadequate oversight and monitoring mechanisms, lack of choice and control, and the negative impact of institutional practices and segregated living.

We recommend reforms to improve the standards of group homes, and expand the choice and availability of alternatives to group homes for those who choose to move to other forms of housing.

Commissioners Bennett, Galbally, Mason, McEwin and Ryan recommend that these reforms should be made as interim steps in a roadmap to phase out group homes altogether. This approach is set out later in this chapter.

The NDIS Commission's plan to improve group homes

The Own Motion Inquiry considered reportable incidents and complaints in seven of the larger providers delivering SIL in group homes. These seven providers collectively support 18 per cent of all NDIS participants receiving SIL in Australia. The *Own Motion Inquiry* report identified its main areas of observation and action, including:⁶³

- specific regulation of group home settings is required to enhance the quality and safety of these settings for people with disability
- greater engagement with people living in group homes is required to support their exercise of choice and control
- the attitude and aptitude of the workforce drives a high number of the issues evident in group home settings
- the interaction of SIL and SDA arrangements affects the ability of people with disability in supported accommodation to make changes to their living arrangements
- the NDIS Commission needs to better understand the supported accommodation market and how people interact with it including by improving the collection, monitoring and analysis of relevant data
- the interface between health care and the supported accommodation system is not effective for many people living in these settings.⁶⁴

In response to these findings, the NDIS Commission has committed to the Own Motion Inquiry into Aspects of Supported Accommodation – Action (the Action Plan). It includes nine key actions:⁶⁵

1. enhance regulation and monitoring of supported accommodation
2. educate providers and workers
3. increase oversight of SIL services
4. enhance guidance for reportable incidents
5. increase participants' understanding of their rights and capacity to exercise rights

-
6. support the exercise of choice and control by participants living in larger sites in relation to changes in their living arrangements
 7. embed the voice of participants in supported accommodation into the design of the audit scheme
 8. deepen understanding of the supported accommodation market
 9. develop our understanding of participant personal wellbeing and choice.

We welcome the release of the *Own Motion Inquiry* report and Action Plan. We note the Action Plan addresses issues identified through our inquiry, including improving oversight and monitoring, and choice and control for people with disability.

We recommend the NDIS Commission prioritise implementation of this Action Plan.

Further opportunities for group home reform

The *Own Motion Inquiry* report is based on seven larger providers in Australia. While the evidence presented to the Royal Commission shares some common themes, further actions should also be taken to address evidence we heard, including from smaller providers.

Addressing conflicts of interest in service provision

The Royal Commission heard evidence that outlined the potential risks associated with providers delivering both accommodation and support services. In that situation the provider has a potential conflict of interest which can very easily become an actual conflict. A resident receiving group home accommodation, SIL services and perhaps support coordination from the same provider has effectively been ‘captured’ by the provider. The resident may be directed to services supplied by the provider or an affiliate that do not necessarily meet the residents’ needs. The service provider may not only have no incentive to minimise costs borne by the resident but might actively discourage the resident from seeking or obtaining services from another provider, at a more competitive price.

In Public hearing 13, ‘Preventing and responding to violence, abuse, neglect and exploitation in disability services (a case study)’, ‘Eliza’ described her experiences engaging with Sunnyfield, which provided both group home accommodation and support to her sister.⁶⁶ She considered that the provision of both services raised a potential conflict of interest. She said this was based on what the residents’ families had experienced when removing the previous service provider, prior to Sunnyfield. She recalled being told they could use a new support service provider because the previous provider also owned the house itself. For this reason, it was important to the families that provision of accommodation be separated from service provision.⁶⁷

Action 1 of the Action Plan includes: ⁶⁸

- developing new standards and reviewing existing standards

-
- considering ‘how quality indicators can support the management of complex situations in group homes, whether the SIL provider and the SDA provider are the same, or different’.

Action 8 includes:

undertaking further work with the NDIA to build a deeper understanding of the composition of the supported accommodation market and the interaction of Supported Independent Living and Specialist Disability Accommodation funding arrangements to assist in developing and targeting activities arising from this Inquiry.⁶⁹

While quality indicators are important, in our view the Action Plan does not sufficiently address the conflict of interest that can result from providers supplying both accommodation and support services. The lack of separation of accommodation and supports can result in a potential conflict of interest that denies residents the right to security of tenancy if they wish to change their support service provider.

We recommend that Action 8 be expanded to include a specific review of mechanisms to transition away from provision of SIL and SDA services by the same provider. In the interim, this should include strengthened oversight of providers supplying both service types to address and monitor conflicts of interest.

Volume 10 examines independent support coordination as an additional mechanism to prevent conflicts of interest.

Enhancing community connection and participation for residents in group homes

Connections with and participation in the community by people with disability can constitute a form of informal safeguarding and provide protection from violence and abuse. Many respondents to the *Promoting inclusion issues paper* drew links between segregation, exclusion and an increased risk of violence, abuse, neglect and exploitation. Queensland Advocacy Incorporated stated in its response:

People who are isolated and separated from the wider community are subject to less safeguards and protective oversight ‘from the gaze of citizens’ and are therefore more vulnerable to acts of abuse and violence. The denial of a person’s autonomy also increases their dependence on others which can increase the risk of violence.⁷⁰

Community connection and participation are also fundamental in addressing the segregated nature of supported accommodation settings. The capability of disability workers and the models used for supported accommodation both play a role in supporting the community connection.

Action Plan Action 2, ‘Educate Providers and Workers’, includes the initial action that the NDIS Commission:

Work with providers to co-design and pilot aspects of the best practice model for supported accommodation proposed by Professor [Christine] Bigby, including Frontline Practice Leadership and Active Support.⁷¹

Active Support is an ‘evidence-informed practice’ that Professor Bigby found:

positively influences the quality of life ... for all people in group homes, across the domains of personal development, emotional wellbeing, autonomy, interpersonal relationships, and social inclusion.⁷²

We recommend that Action 2 should also be expanded, with particular attention given to strengthening the implementation of models of practice for disability providers, such as Active Support, to ensure that residents of group homes are actively supported to have greater social interaction and community participation.

Further opportunities for addressing issues within the disability workforce and models of practice are addressed in Volume 10.

Reporting on progress in group home reforms

The Action Plan notes that ‘progress on the actions set out in this plan will be reflected in our corporate planning and reporting processes’.⁷³

Given the importance of this Action Plan in leading the way to improved practice in group homes across Australia, we recommend that the NDIS Commission develops an implementation plan with explicit timeframes. It should also report on progress against identified outcomes to the Disability Reform Ministerial Council annually.

Recommendation 7.41 Group home reform

The NDIS Quality and Safeguards Commission should prioritise the implementation of the Own Motion Inquiry into Aspects of Supported Accommodation – Action Plan (the Action Plan) and expand actions to include:

- a. a specific review of mechanisms to transition away from allowing the same provider to provide Supported Independent Living and Specialist Disability Accommodation services, with interim arrangements to strengthen oversight to address and monitor conflicts of interest (under Action 8)
- b. strengthening how disability providers implement models of practice, such as Active Supports, to ensure that people with disability living in group homes are actively supported to have opportunities for greater social interaction and community participation and inclusion (under Action 2)

-
- c. developing an implementation plan for the Action Plan, with:
 - explicit timeframes for delivery
 - annual reporting on progress and outcomes to the Disability Reform Ministerial Council.

9.4. Improving access to alternative housing options

The NDIA's General Manager, Provider and Market Development, Ms Gerrie Mitra, acknowledged in Public hearing 32 the challenges some participants face in achieving their home and living goals. She agreed that inquiries, research and reports have shown that home and living options were limited, too restrictive and did not give people real choice and control about who they live with and how they live.⁷⁴

Professor Bigby said that for people to have meaningful choice about where they live, they need the opportunity to experience living in different accommodation settings.⁷⁵ This was underscored by the experience of witnesses who had lived both in group homes and in other types of accommodation. They gave powerful evidence of the benefits of transitioning to living in accommodation of their choice, usually with the support of NDIS funding.⁷⁶

There are a number of key barriers to independent, inclusive living for people with disability with high support needs. These include:

1. **the lack of sustainable, alternative housing options**, including:
 - the lack of accessible housing supply in Australia (addressed in Chapter 8)
 - the current status of innovative new alternative housing models, which require longitudinal evaluation and considerable additional investment to be brought to scale
2. **inflexible funding arrangements for NDIS participants** that currently favour access to the group home model
3. **a lack of clear transition pathways and insufficient advocacy and support** to help people with disability understand their housing options, navigate the market and move out of group homes, if this is their preference.

These three areas are examined below in relation to evidence and information received by the Royal Commission. A consolidated recommendation to address these barriers and improve access to alternative housing options is made at the end of this section (Recommendation 7.42).

Increasing alternative housing options

Without making sufficient alternative housing options available in a range of locations, people with disability may have no choice but to live in group homes. There are limited, genuinely inclusive housing options for people with disability,⁷⁷ particularly those with high support needs.⁷⁸

In Public hearing 3, Ms Kayess attributed the lack of choice about where to live for some people with disability due, in part, to the lack of stock of accessible and affordable housing.⁷⁹

Dr Wiesel stated:

what I would like to see from the Royal Commission is a ... very strong push ... for governments to come up with plans to address unmet need, and to provide a supply of housing that is affordable for people with disability that gives them choice about where they live, that is suitable for people in terms of design, the management of their homes, that is well located, that is not segregated.⁸⁰

In Public hearing 3, Dr Sherene Devanesen, who was the CEO of Yooralla, a not-for-profit disability service provider, said the service had assisted people to move into independent accommodation in the community through 'transition facilities'. However, not enough alternate options were available to assist everyone who might want to move out of a group home.⁸¹ In Public hearing 32, Terry Symonds, Yooralla's subsequent CEO, talked about the service assisting approximately 45 people to transition out of group homes to alternate living options within the previous three years.⁸²

Emerging models of innovative housing for people with higher needs

Fully inclusive living is possible for people with disability, including those with high and complex support needs. Through our inquiry, we heard about how people with disability had benefitted from transitioning to living in accommodation of their choice, usually with the support of NDIS funding.⁸³ Evidence gathered by the Royal Commission has highlighted examples where inclusive housing is already progressing in Australia. These include approaches that meet the requirements of people with disability with higher, more complex support needs.

While investment in, and evaluation of, these innovative models is in its early stages, the initiatives outlined below provide the foundation for building best practice and expanding alternative housing options.

The '10+1' housing model

In Public hearings 3 and 32, we heard about the 10+1 housing model developed by the Summer Foundation.⁸⁴ This model involves purchasing 10 apartments in a larger development located near accessible transport and other community amenities and redesigning them for accessibility. Under the 10+1 model, 10 people with disability live in their own home and have

their own planned supports. The additional apartment, the '+1', is provided as the base for shared, unplanned support.

The model offers people with disability the confidence of knowing there is support available, 24 hours a day, 7 days a week if the need arises.⁸⁵ Dr Di Winkler, CEO and founder of the Summer Foundation, explained that this model 'gives [the residents] a little more flexibility in terms of being able to share support', because it gives them more choice as to who provides them support and when, while allowing them to live independently within a community.⁸⁶ Dr Winkler emphasised the need for greater understanding on the part of some providers and the NDIA about the 10+1 model, recognising it is not just a 'different version of a group home'.⁸⁷

Housing model for First Nations people with complex disability

Adam Schickerling, National Director of Strategy and Engagement at Synapse, a national organisation for people with brain injury, spoke at Public hearing 32 about the development of its Community Living Initiative (CLI) in Cairns. This is Australia's first purpose-built housing complex for First Nations people with complex disability. The CLI has four duplexes and eight sole-occupancy homes. At the time of Public hearing 32, the Cairns CLI was fully occupied.⁸⁸

The intention of the initiative is to help strengthen culturally safe supports and services to enable people to more easily move from hospital or other culturally inappropriate settings back home to Country or another home of choice. 'At its heart, the intent is to provide a place of identity, belonging and healing, led by Aboriginal and/or Torres Strait Islander peoples'.⁸⁹ Synapse is working with government and housing organisations to replicate the CLI in other Australian regions.

Home share models

Other established housing approaches are also available for people with disability. The Independent Advisory Council to the NDIS provided a report in 2018 on pathways to contemporary options for housing and support.⁹⁰ The report outlined alternative options including Home Share, Shared Lives and *KeyRing*.

The Home Share model is designed to bring people together. In this model, a person with disability is the householder and requires some companionship and assistance, and the home sharer is a person, or persons, who needs somewhere affordable to live.⁹¹

Shared Lives is a model of support in which the person with disability lives in the home of a compatible Shared Lives carer and their family.⁹²

KeyRing is an approach to housing and support that uses a 'supportive housing system' in which nine members with disability live in their own home close to one another and receive assistance from a community living volunteer and other *KeyRing* members.⁹³ The volunteer either lives in the same community or has strong links to the community and supports members to make connections with one another and the local community.⁹⁴

The accommodation component of the *KeyRing* model varies, with people with disability accessing a variety of housing and tenancy arrangements. These include living alone, sharing with a friend or partner in public or social housing, renting privately, or owning their own home.⁹⁵

NDIA Home and Living Demonstration Projects

In 2021, the NDIA launched Home and Living Demonstration Projects. This new initiative invests in designing, evaluating, and implementing and evaluating innovative projects that support the provision of SIL. In particular, this initiative:⁹⁶

- caters for participants with different developmental needs, residing in different housing models and geographies
- offers different service models including staffing structures, informal care, clustering of participants, accommodation arrangements and shared services
- explores alternative funding approaches that facilitate flexibility for wraparound supports and encourage innovation and achievement of outcomes.

The first round of demonstration projects focused on supporting providers and participants to work together to design and test improved ways of funding and delivering SIL.⁹⁷ Nine of the demonstration projects are being implemented throughout 2022 and 2023.⁹⁸ These projects are delivered using existing funds in NDIS participants' plans, with additional grant funding provided to support evaluation activities.⁹⁹

In March 2023, the NDIA committed an extra \$1.5 million in grant funding for a second round of demonstration projects¹⁰⁰ that focus on 'testing and evaluating different models of delivering high quality information, assistance and connections support to participants looking to explore their home and living (H&L) options'.¹⁰¹

Investment in the design, development and evaluation of innovative housing models

While we welcome the NDIA's commitment to innovation in housing for people with disability, we consider that the current level of investment in the Home and Living Demonstration Projects does not reflect the degree of change needed or its urgency. Further investment in design, development and evaluation is required to expand the supply of sustainable housing options for people with more profound disability and/or more complex needs.

It is particularly important that all new models of alternative housing and support are robustly evaluated so they can be effectively scaled up and to build an evidence base for best practice. Findings from a study involving people with intellectual disability living in supported living arrangements in the community found that while participants were 'unequivocal about the greater sense of autonomy, independence and freedom from control by others they experienced in supported living compared to other arrangements',¹⁰² loneliness was commonly experienced by participants in the study. The research drew attention to 'the importance of person-centred

support for people in supported living arrangements to develop and maintain social relationships'.¹⁰³ New models should ensure that residents are supported to build and maintain social connections and active participation in the community, if they choose to do so.

In information provided to the Royal Commission for Public hearing 32, Ms Mitra informed the Royal Commission that the NDIA was evaluating the Round 1 projects from the Home and Living Demonstration Projects. We heard the overarching purpose of the evaluation was to identify and inform participants, service providers and the NDIA about:¹⁰⁴

- innovative models of flexible home and living support that provide choice and control for participants to live an ordinary life and achieve their life goals, including greater social and economic participation
- home and living supports that are administratively simpler to deliver, enabling providers to be viable and their workforce engaged and capable of delivering highquality care
- a future state for home and living supports that helps to ensure the sustainability of the NDIS.

The NDIA also established a community of practice with project providers in mid-2022, so that they could 'share their learnings about better practice and flexible service models and promote greater participant choice and control and service design'.¹⁰⁵ The community of practice is 'supporting the expansion of the knowledge of innovative practice within home and living options, fostering collaboration and the sharing of information and learnings'. Ms Mitra said they anticipate that this project will provide an evidence base to inform decisions about how new approaches may be embedded in NDIS operational policies and processes.¹⁰⁶

We support this critical focus on evaluation, and the creation and sharing of emerging best practice that the NDIA has built into these demonstration projects. We recommend that the NDIA maintain this approach for all current and future project rounds.

Diversified funding mechanisms to deliver new innovative housing supply

The first round of the Home and Living Demonstration Projects described above sought to explore alternative funding models for SIL providers, including fee for service, bundled payments, and outcomes-based or 'payment for performance' funding.¹⁰⁷ While these funding models explored specific options for SIL providers, they did not explore broader market levers and opportunities for greater participation in the mainstream housing market.

We recommend that the NDIA should expand its focus on and investment in innovative housing and support options beyond those delivered through SIL funding. This includes establishing additional rounds of demonstration projects from 2024. In these rounds, the NDIA should explore different market mechanisms for diverse housing models. Consideration should be given to market mechanisms that could stimulate not-for-profit and for-profit private investment; rent-to-buy and shared equity options, which offer the opportunity to build wealth; and increasing accessible housing in new developments and in community housing.

Understanding housing preferences and assessing market demand

We are also of the view that there is a need to assess market demand for alternative housing options in relation to NDIS participants. Following Public hearing 26, Counsel Assisting submitted that the Royal Commission consider a recommendation that:

the NDIA consolidate information provided by NDIS participants on their housing preferences, with a view to using that information to inform innovative housing developments for Australians with disability by state and local governments, housing authorities and developers.¹⁰⁸

We agree with Counsel Assisting and the Australian Government that information provided by NDIS participants on their housing preferences should be used to further inform innovative housing developments for Australians with disability.

In addition to informing future rounds of the Home and Living Demonstration Projects, this assessment of market demand should be distributed by the NDIA to state and local governments, housing authorities and property developers.

Funding reform to address inflexible NDIS plans

Greater funding flexibility in relation to how NDIS participants receive funding is also vital for increasing access to alternative housing options beyond group homes.

Aspects of funding arrangements and disability services have been discussed in many of the Royal Commission's public hearings. We agree with Counsel Assisting's submissions following Public hearing 32 that it is clear that how disability services are funded and delivered has a direct impact on the risk of violence, abuse, neglect and exploitation faced by people with disability accessing those services.¹⁰⁹ We also heard people with disability who want to move out of group homes can experience delays, influenced by factors such as the inadequacy of NDIS funding.¹¹⁰

In particular, this relates to the operation of SIL and SDA funding where the administrative and pricing mechanisms specifically support access to living in the group home model in favour of access to other inclusive housing options for NDIS participants.

In its submission to the Royal Commission, the Summer Foundation stated:

- While the NDIA states that it is seeking to 'encourage new models of home and living', the way the scheme currently funds housing, support and support coordination perpetuates the power of traditional group home providers at the expense of NDIS participants. An effective market-based system that fosters innovation requires informed and empowered consumers.¹¹¹

In its report into SIL in 2020, the Joint Standing Committee on the NDIS concluded:¹¹²

- the existing SIL regime may force participants with SIL to live in shared settings, and may be perpetuating older models of disability support rather than delivering the innovations promised by the NDIS. The NDIA has advised that it does not require participants who access SIL to live in congregate settings, or prefer that they do so. However, the NDIA does not have a clear policy mandate on this matter. Moreover, it appears that the NDIA's approach to assessing whether a particular support is reasonable and necessary may lead the agency to prefer shared over individual arrangements in many cases.

Synapse sought to engage with the NDIA about how funding under the NDIS could be applied to the Cairns CLI (described above) in a way that would safeguard the cultural integrity of the model.¹¹³ We were told that Synapse's advocacy was not successful. The CLI is currently funded under the SIL model, which Synapse says 'is at complete odds with the very foundation of the model'.¹¹⁴

We heard from Dr Winkler that the NDIA had recently introduced a line item in the NDIS Pricing Arrangements and Price Limits that expressly addresses people sharing supports when they are co-located.¹¹⁵ Dr Winkler described the introduction of this line item as 'a first step'.¹¹⁶

The *Own Motion Inquiry* report concluded that the funding mechanisms for SIL and SDA appeared to contribute to limitations in 'the ability of people with disability living in supported accommodation to have the same extent of individual choice and control over their NDIS supports as other NDIS participants'.¹¹⁷

We welcome the NDIS Commission's response to these findings under Action 8 in the Own Motion Inquiry Action Plan, which proposes:

further work with the NDIA to build a deeper understanding of the composition of the supported accommodation market and the interaction of Supported Independent Living and Specialist Disability Accommodation funding arrangements to assist in developing and targeting activities arising from this Inquiry.¹¹⁸

We recommend that Action 8 be expanded to not only review but also reform SDA, SIL and Individualised Living Options (ILO) funding to provide greater flexibility and greater choice and control for NDIS participants over how their home and living supports are designed and delivered. In particular, this flexibility should ensure that administrative or pricing mechanisms support access to other inclusive housing options beyond group homes for people with disability. For example, consideration should be given to the NDIA using flexible home and living line items that guarantee a level of funding without prescribing a specific model of support.

Strengthening and supporting transitions to alternative forms of housing

In addition to ensuring the availability of suitable housing options, the Royal Commission heard of the critical need to provide greater practical support to NDIS participants to transition to individualised living arrangements in which they have choice and control over who they live with and how their support is delivered.

We heard that barriers for people with disability wanting to exit group homes included a lack of advocacy, advice and support to help determine the pathway to an alternative housing option.¹¹⁹

The *Own Motion Inquiry* report found there are limited levers for providers to assist people to make such changes.¹²⁰ Without active engagement, it is unlikely that all people with disability will have access to the information and support they need to choose and navigate a transition to inclusive housing that meets their needs and preferences.

People with disability who experience challenges in being understood in relation to their needs and preferences may have little or no opportunity to explore alternative housing options. This is particularly the case for those who are isolated from family, friends and other advocates. People who have lived in group home settings for a long period may be fearful about the changes required or unaware of other options and how they may access them. The *Own Motion Inquiry* report noted that this was particularly the case for people living in group homes who had transitioned from state and territory funding arrangements.¹²¹

The importance of advocacy and support to explore housing alternatives was highlighted in a University of Sydney literature review for the NDIA.¹²² This review identified the importance of:¹²³

- staff providing active, person-centred support to people with disability to explore and navigate the housing market
- community outreach and assisted technology
- support to build and maintain social relationships and the role of informal support networks.

In Public hearing 32, we heard that access to independent advocacy was important for people to be able to make housing transitions.¹²⁴ In Public hearing 3, Ms Forbes talked about the challenges for residents of group homes.¹²⁵ In Volume 10, we address this shortfall and make a recommendation for greater access to advocacy for people with disability living in supported accommodation, such as group homes.

In terms of other support, some NDIS participants have support coordination as part of their NDIS package. The role of a support coordinator is to assist a person with disability to understand and use their NDIS plan to 'pursue their goals' and 'connect ... with NDIS providers, community, mainstream and other government services'.¹²⁶ In many cases, this role is delivered by a person employed by their SDA provider. This reflects a direct conflict of interest in that the support coordinator, who is employed by the service providing the group home, may be unlikely to recommend transition from the group home. Volume 10 examines the critical need for

support coordination to be independent. The Royal Commission recommends that this becomes mandatory to avoid the conflicts of interest that have been identified.

To address these barriers, reforms to improve the range of housing options available should be accompanied by a dedicated pathway to support people with disability. This pathway should focus on helping people with disability to understand and explore their housing options, choose to transition, and support that transition to the housing of their choice.

As a starting point, transition support should include:

- assessing each person's housing needs and preferences at least annually
- updating each person's NDIS plan to include specific support, including capacity building to support the decision to transition to more independent living
- developing an individual transition plan where a person who is interested in changing housing identifies current available and emerging alternative housing options, beyond the offerings from their current provider
- providing greater access to independent advocates for residents of group homes
- providing access to an independent NDIS support coordinator responsible for providing practical transition support.

We note that the outcomes and evaluations of the Round 2 Home and Living Demonstration Projects discussed earlier may also help to inform the development of transition supports.¹²⁷

We would also encourage the NDIA to investigate opportunities for group home providers to provide 'step down' accommodation options to support the transition of residents.

New NDIA Home and Living Framework

In preparation for Public hearing 32, the Royal Commission requested that the NDIA identify any initiatives developed by, or in cooperation with, the NDIA that support transitioning the provider market away from the traditional group home model, and toward newer, more innovative service models that embed a rights-based approach and better reflect the needs and preferences of a more diverse range of people with disability.¹²⁸ In her response, Ms Mitra referred to a number of 'aspirations' in the NDIA Corporate Plan 2022–26 that relate to a market transition away from traditional group home models towards more innovative service models that embed a rights-based approach.¹²⁹

Of particular importance, we heard about the work that has been underway since 2021 to develop a new 'Home and Living Framework' (the Framework) for the NDIA, as a 'new approach to homes and living in the NDIS'.¹³⁰ A program of national consultation to inform the development of the Framework was launched in June 2021, followed by commissioned research and 120 hours of co-design workshops with people with disability in 2022.¹³¹

Ms Mitra said the Framework:¹³²

aims to support a major shift to contemporary best practice models of home and living support and a reduced reliance on legacy models of congregate care. This means supporting innovative, evidence-informed, best practice, individualised living arrangements where participants have choice and control over who they live with and how their support is delivered.

The Framework will also seek to remove barriers that have driven participants into segregated models of support (where people with disability do not have the same opportunities to fully engage or participate in the community), while introducing support for participants and providers to grow and further develop alternative, more innovative solutions.

The Framework will be supported by a multi-year implementation plan, which will support innovation and improve housing supply. The NDIA wants to work with the market to transition out of traditional service models, support better matching of appropriate supply to demand and need, and encourage more innovative and contemporary options.

As part of the commitment to developing a new approach to home and living through the Home and Living Framework, the NDIA is co-designing a new Home and Living policy. This includes supporting the delivery of contemporary and innovative approaches which increase participant choice and control over where, how, and with whom they live.

The Australian Government, in its response to Counsel Assisting's submissions to Public hearing 32, submitted that the NDIA's Home and Living Framework was drafted 'with respect to the objects and principles of the *CRPD*, including article 19', which recognises 'the equal right of all persons with disabilities to live in the community with choices equal to others'. Importantly, the Australian Government considers that 'the policy objectives and approach outlined in the Home and Living Framework are aligned with the objectives in the recently released *CRPD Guidelines on deinstitutionalisation*'.¹³³

We agree with Counsel Assisting's submissions to Public hearing 32 that it is premature for us to comment on whether the Home and Living Framework and its forthcoming implementation plan will be able to achieve the full set of objectives in the *CRPD* Committee's guidelines. However, we believe implementation of the Framework can provide a critical foundation for delivering more choice and control for participants. It can also reduce the NDIS's current reliance on group homes in favour of more contemporary and innovative models of support.

Given the strong alignment between the Framework (as described in the NDIA's submission to the Royal Commission set out above) and the issues identified through our inquiry set out above, we recommend that the NDIA:

- prioritises the delivery of this Framework

- provides explicit timeframes for its implementation that recognise the urgency of these reforms, in relation to realising the rights of people with disability under the *CRPD*
- considers what steps should be taken to fully support its implementation within these timeframes, to realise the NDIA's stated objectives of achieving a major shift to contemporary best practice models of home and living support, where participants have choice and control over who they live with and how their support is delivered
- works with the disability community to identify key outcomes and measures
- develops a comprehensive monitoring and evaluation plan to track and report on progress.

We recommend that all Australian governments and the NDIA work collectively to expand alternative housing options, ensure that NDIS participant funding provides sufficient flexibility to support a range of housing options, and provide clear and supported transition pathways for people with disability who choose to move out of group homes.

Recommendation 7.42 Improve access to alternative housing options

The National Disability Insurance Agency (NDIA) should work with the Australian Government, and state and territory governments, to expand alternative housing options and support for people with disability to access and transition to these options through a proactive market enablement strategy. This should include:

- a. an increase in innovative housing options, such as by:
 - expanding the NDIA Home and Living Demonstration Projects with additional rounds from 2024. These rounds should:
 - focus on exploring diverse market mechanisms for sustainable housing models
 - include ongoing extensive and independent evaluation and dissemination of emerging best practice to help bring new models to scale
 - establishing a policy unit to co-design, guide and influence the development and implementation of more contemporary accommodation models
 - conducting comprehensive market research to assess market demand and understand National Disability Insurance Scheme (NDIS) participants' housing preferences to inform state and local governments, housing authorities and developers, and drive innovation.
- b. reform of NDIS participant funding models, including Supported Independent Living, Specialist Disability Accommodation and Individualised Living Options to provide greater flexibility. In particular, this flexibility should ensure that administrative and pricing mechanisms do not favour group home living over other models of inclusive housing.
- c. development of clear and supportive transition pathways that provide access to

advice, advocacy and support for people with disability to understand and explore their housing options, make decisions about transitioning to the housing of their choice, and receive support for that transition. This should include:

- an individualised assessment of a person's housing needs and preferences, with the option for this to be regularly updated
 - an update of a person's NDIS plan to include specific support, including capacity building to support the decision to transition to more independent living
 - where a person is interested in changing housing, the development of an individual transition plan that identifies current available and emerging alternative housing options, beyond the offerings of their current provider
 - access to independent advocacy and an independent support coordinator to provide support for and facilitate the transition.
- d. prioritisation of the implementation of the NDIA Home and Living Framework, including:
- establishing explicit timeframes for its implementation that recognise the urgency of these reforms, in relation to realising the rights of people with disability under the *Convention on the Rights of Persons with Disabilities*
 - continuing work with the disability community to identify key outcomes and measures, and developing a comprehensive monitoring and evaluation plan to measure and report on progress
 - ensuring the chosen approaches address the key elements set out above in this recommendation, including:
 - providing a dedicated pathway for participants with a current or anticipated high need for home and living supports
 - ensuring participants taking this pathway have appropriate and timely support to explore and design individualised home and living solutions that work for them.

9.5. A roadmap to phase out group homes: The views of Commissioners Bennett, Galbally, Mason and McEwin

The imperative to phase out group homes over 15 years

We four Commissioners (Commissioners Bennett, Galbally, Mason and McEwin) have examined the evidence and information provided to the Royal Commission in relation to the experiences of people with disability in group homes. We have also considered the CRPD

Committee's general comments on the relevant articles of the *CRPD* and its guidance on ending segregated living.

We believe that it is unconscionable that segregation on the basis of impairment alone remains a policy default in Australia in the 21st century. We have concluded that the limitations that group homes place on the lives of people with disability and the deprivations and exposure to harm that can be experienced in these settings are an infringement of fundamental human rights. Consequently, we believe that group homes must be systematically phased out.

We four Commissioners share the view that reforming aspects of the group home model while still maintaining the segregation of people with disability in these settings, as proposed in Recommendation 7.41, can only be seen as an *interim* measure. A sufficient supply of accessible and inclusive housing will need to be generated that allows people with more profound disability to live outside of institutionalised group home settings on their own terms. This will require a significant investment and commitment from governments to bring to scale the development of alternative housing models, building on the approach set out in Recommendation 7.42.

This approach to ending group homes reflects the recommendations of Commissioners Bennett, Galbally and McEwin for phasing out segregated education settings and the recommendations of Commissioners Bennett, Galbally, McEwin and Mason for phasing out Australian Disability Enterprises, as set out in Part A, 'Inclusive education' and Part B, 'Inclusive employment'.

The human rights case for transitioning from group homes

You don't choose who you live with, you don't choose often where you live, you don't choose the staff who come into your home or who sleep overnight or who touch your body to provide you with personal care. Those are fundamental choices that allow people to exercise their rights. So while people may have a right under the UN Convention to choose who they live with, to choose where they live and to not be obliged to live in a place in order to receive support, that's not the reality for most people living in group homes.¹³⁴

We four Commissioners have reached the view that continuing to segregate people in group homes on the basis of disability prevents Australia from fulfilling its obligations under the *CRPD*.

On the basis of the evidence received by the Royal Commission, we four Commissioners believe that group homes display the characteristics of institutionalisation that have been identified by the *CRPD* Committee in their *Guidelines on deinstitutionalization* (2022),¹³⁵ as

listed earlier in this chapter. These guidelines state that States Parties should recognise institutionalisation in all its forms as ‘a multiple violation of the rights enshrined in the Convention [on the Rights of Persons with Disabilities]’.¹³⁶

We agree that an institution should not be seen as compliant with the *CRPD*, ‘regardless of size, purpose or characteristics, or the duration of any placement or detention’,¹³⁷ and that such environments must never be considered a ‘choice’.¹³⁸

As explained by Mr Gerard Quinn, United Nations Special Rapporteur on the rights of persons with disabilities, in his evidence to Public hearing 31:

- the Guidelines come down clearly against small group homes either as an end point or as a transitional measure. This makes perfect sense if the background assumption is the unacceptability of using impairment as a way of determining where people live just because they share a trait like disability.
- ... It might be countered it is perfectly acceptable to put persons with similar traits – and similar material needs – together for administrative and cost efficiency purposes. Aside from the fact that congregated settings always heighten risk, this misses the point. The point is that the *CRPD* points to the need for a completely different policy imagination – one based on personhood and social inclusion. And this is conspicuous by its absence if congregated settings are accepted as an option for the future.¹³⁹

We support the position put forward by Mr Quinn that a ‘paradigm shift’¹⁴⁰ is required to move away from what he refers to as the ‘segregationist ethic’ that has fostered decades of exclusionary policies.¹⁴¹

We believe there is evidence that such a paradigm shift is both possible and desirable. For example, we are aware of NDIA-commissioned research from the University of Sydney in 2022, *Homes and Living Options for People with Disabilities: A systematic review and environmental scan of strategies to support transition from group homes and congregate care, and those which prevent movement to congregate settings*, which found that:

- Improvements in independence, quality of life and wellbeing, social inclusion and participation (including attainment of social valued roles) health and functioning, and adaptive behaviour were found for people with disabilities following transition to housing alternatives other than congregate and group home settings.¹⁴²

To move away from exclusionary models of housing for people with disability, we propose a comprehensive strategy or roadmap to phase out group homes is progressed as part of the NDIA’s implementation of the Homes and Living Framework, together with coordinated action from all Australian governments. This aligns with the position of the *CRPD* Committee as set out in *General comment no. 5 (2017)*, which calls on States Parties to:

- adopt clear and targeted strategies for deinstitutionalization, with specific time frames and adequate budgets, in order to eliminate all forms of isolation, segregation and institutionalization of persons with disabilities.¹⁴³

Why reforming the group home model is not enough

Recommendation 7.41 sets out proposals to amend the group home model, with reference to the NDIS Own Motion Inquiry into Aspects of Supported Accommodation – Action Plan.¹⁴⁴

We four Commissioners agree that immediate reforms to the group home model are required and support the proposed actions under these recommendations. However, we see these as an interim measure to increase the safety, autonomy and voice of residents who are currently required to live in group homes or who choose to remain there for the foreseeable future.

Looking ahead, we four Commissioners consider that the continued existence of segregated housing for people with disability will slow the development of alternative, inclusive housing options for people with disability. There is too little cause or compulsion for inclusive housing options for people with disability to be developed in the mainstream housing system while group homes continue to exist. This is particularly the case for people with higher or complex support needs.

We four Commissioners believe that the retention of group homes as a segregated setting will also continue to entrench beliefs that people with more profound disability are unable to choose where, and how to live and realise full inclusion in the community. This can contribute to broader stigmatisation as some people with disability remain positioned in society as the ‘other’ – invisible and unfamiliar.

We are not sufficiently convinced that reforms to the group home model would sufficiently transform these settings to remove all aspects of institutionalised cultures and practices or prevent slipping back into institutional practices. In this regard, we agree with the position put forward by the CRPD Committee. Its guidelines on deinstitutionalisation note that the absence, reform or removal of one or more ‘institutional elements’ will not make a setting ‘community-based’. A setting located ‘in the community’ but where service providers set a routine and deny autonomy is still considered an institution.¹⁴⁵

With reference to the critical development of ‘personhood’, Mr Quinn stated that people become who they are because of the range and depth of their immersion in their community.¹⁴⁶ He proposed that applying contemporary approaches to equality means asking ‘how do we create space for you to flourish as a human being and to give back to your community as a human being?’¹⁴⁷

While group homes are inherently based on a model of segregation, we believe they are unable to create the space for such range or depth of community immersion.

We agree with conclusions drawn by the NDIS Independent Advisory Council in 2018 in its advice regarding *Pathways to contemporary options of housing and support*. It noted that a lack of policy clarity regarding the status of group homes was a significant barrier to the NDIS delivering on its legislated objectives.¹⁴⁸ Although there was significant variation in the quality of group homes, even ‘the best group homes were “not that good”’.¹⁴⁹

This advice builds a compelling case that group homes are expensive options that do not derive the benefits of more contemporary approaches; that many residents of group homes have similar profiles to participants living in less restricted and less costly options; and that group homes are associated with abuse.¹⁵⁰

Developing the roadmap to phase out group homes

To phase out group homes successfully, Commissioners Bennett, Galbally, Mason and McEwin recommend that the Australian Government establish a clear roadmap to implement this change over the next 15 years. This should have the addition of the option for those who wish to remain in their group home to do so over their lifetime. This roadmap will need to address the key issues we have heard through our inquiry, including delivering enough supply of inclusive housing to meet demand, supporting people with disability to transition, and implementation planning to support the successful phasing out of group homes.

In attempting to replace group homes with predefined alternative models of support, it will be critical to avoid repeating past errors. These errors include denying autonomy and choice and control of people with disability regarding the planning and design of individualised supports. The approach to transitioning away from group homes should maximise flexibility and enable people with disability to choose ‘where and with whom they live on an equal basis with others that are not obliged to live in a particular living arrangement’.¹⁵¹

It is important to note, this recommendation **is not** intended to prevent people with disability *choosing* to live in the same household with their partner, spouse, friends, family, or self-selected housemates, with or without disability.

This recommendation **is** designed to ensure that:

- the group home model that currently operates to segregate people from the community and deny them choice and control in so many aspects of their lives is phased out
- in every circumstance, choices about where, with whom, and how a person with disability chooses to live are able to be realised
- a review of the current Specialist Disability Accommodation Pricing and Payments Framework¹⁵² is undertaken to make sure it remains fit for purpose in targeting funding to participants with highest need while incentivising models other than group homes.

Delivering inclusive housing to meet demand

The Royal Commission has heard that there are limited, genuinely inclusive housing options currently available.¹⁵³ A lack of supply of alternative housing options has been identified as a key barrier to people with disability.¹⁵⁴

As outlined earlier in this chapter, the NDIA Home and Living Demonstration Projects initiative has made a start on identifying and evaluating innovation in the delivery of SIL.¹⁵⁵ However, it

does not go far enough and in Recommendation 7.42, we recommend expanding these projects to address broader mainstream housing market models.

To support successful transition of people out of group homes altogether, we believe we need to go further still. We four Commissioners recommend that the roadmap should address housing supply and demand to ensure that people with disability have enough alternative housing options to facilitate an end to group homes.

The roadmap should particularly include:

- comprehensive assessment of existing service demand (people with disability who are currently living in groups homes and current unmet needs) and projected service demand (forecast of demand for supported accommodation over the next 30 years)
- assessment of projected supply of alternative housing to inform planning for the transition of people out of group homes, including a stocktake of existing disability housing assets that may be repurposed or used to increase the supply of inclusive housing.

This modelling should be used to inform increased investment in rolling out successful housing models from the Home and Living Demonstration Projects and generated through Recommendation 7.42. This should ensure that there is enough housing supply to meet the needs of people with disability in the future and avoid the deinstitutionalisation mistakes of the past.¹⁵⁶

Transition support for people with disability

As outlined in Recommendation 7.42, people with disability who currently reside in group homes should have choice as to whether to stay for their lifetime. Those who wish to transition need to have appropriate support and advice and advocacy to navigate transitioning to an alternative housing option. To facilitate phasing out group homes, the support outlined in Recommendation 7.42 will need to be scaled up to facilitate transitions for all those who choose to transition within the next 15 years. The scale and pace of this support should be informed by the supply and demand modelling, and implementation planning included as part of the roadmap.

While the focus of the roadmap will be on people with disability currently residing in group homes, ongoing processes will need to be in place to support people as they seek housing. Governments should also consider the scale of ongoing support that may be required.

We recognise that this transition will take time, with people continuing to live in group homes for their lifetime, if they choose to do so. To ensure the safety of people living in group homes and to improve the choice and control they exercise, Recommendation 7.41 should be implemented to address these immediate issues.

We reiterate that we recognise that some people with disability will choose to remain in their group home and they should be supported in their choice. It is important that this process ensures no person with disability is forced or made to feel under pressure to move from their place of residence. State and territory governments and the NDIS will need to identify

appropriate timeframes and grandfathering provisions for people who wish to remain living in their current group home. This may need to include consideration of additional financial support for this grandfathering approach to maintain financially viable group home arrangements where some residents choose to move and some remain.

Implementation planning

We four Commissioners believe the ongoing existence of group homes acts as a disincentive for investment and establishment of alternative housing models for people with disability. For this reason, a strong implementation plan with key actions that demonstrate progress towards ending group homes will be critical. This would include immediately reorientating SDA expenditure to models other than group homes.

We recommend that target dates should be set for key progress in phasing out group homes.

Firstly, government funded construction of new group homes should cease as quickly as possible, at most within the next two years. This will be an important first signal to the provider market that governments will no longer invest in this model.

Secondly, a specific date should be set for ceasing placement of new residents in group homes. We recognise that this will rely on the availability of alternative housing models. However, it is important that this date is set early in the transition period (no later than five years) to minimise the impact of potentially multiple housing moves for people with disability over this period (for example, moving to a group home and then transitioning to an alternative model three to five years later).

Thirdly, a specific date should be set for the final transition of those people with disability who wish to move out of their group homes (no later than 15 years).

In addition to these specific target dates, we four Commissioners recommend that the Australian Government develop an outcomes-based evaluation framework, tool and processes to track short-, medium- and long-term outcomes across the roadmap, and build an understanding of emerging best practice.

This is consistent with the evidence of Mr Quinn in Public hearing 31, who noted that in relation to the change required to address segregation and institutionalisation:

a deeper level of intentionality, a stock-taking of where things are at, a clear statement of the end-goals and an understanding of the means, tools, timelines and resources needed to move the dial and an institutional architecture designed to oversee the change.¹⁵⁷

Further implementation considerations

To respond effectively to the diverse needs and preferences of people with disability, the design and implementation of these reforms should be delivered in partnership with people with

disability and other key stakeholders. These will include the families and advocates of people with disability, community housing providers, the private housing sector (including developers and investors), the NDIA, and disability service providers.

This recommendation also aligns with:

- recommendations in Chapter 8 to improve monitoring and oversight of SRS and their equivalents, the supply of accessible social and affordable housing for people with disability, improved tenancy rights and increased focus on people with disability in all key housing and homelessness plans
- recommendations in Volume 6 related to support for decision-making and access to advocacy services for people with disability
- recommendations in Volume 10 to address quality and choice and control for participants with respect to supports provided within housing. This is critical to ensuring segregation is not exacerbated by the way in which supports and services are funded and delivered.

Recommendation 7.43 A roadmap to phase out group homes within 15 years

Commissioners Bennett, Galbally, Mason and McEwin recommend the Australian Government and state and territory governments develop and implement a comprehensive roadmap to phase out group homes within the next 15 years. This roadmap should address delivering inclusive housing supply to meet demand, transition support for people with disability, and implementation planning for phasing out group homes. It should include:

- a. delivery of inclusive housing supply to meet demand, by:
 - undertaking a comprehensive assessment of existing service demand (including people with disability who are currently living in group homes and current unmet needs) and projected service demand (forecasted demand for supported accommodation over the next 30 years)
 - assessing projected supply of alternative housing to inform planning for the transition of people out of group homes, including conducting a stocktake of existing disability housing assets that may be repurposed or used to increase the supply of inclusive housing
 - piloting alternative housing models with increased investment to roll out successful models in line with supply and demand modelling to meet future housing needs for people with disability (see also Recommendation 7.42).

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- b. a review of the current Specialist Disability Accommodation (SDA) Pricing and Payments Framework to ensure it remains fit for purpose, focusing on ensuring that:
 - a data-driven approach is used to direct investment where it has the greatest benefit for participants and the National Disability Insurance Scheme (NDIS)
 - NDIS funding for specialist accommodation is directed to those participants with significant functional impairment or high support needs for whom specialised housing would deliver a measurable benefit
 - the needs of people with disability for affordable and accessible housing are prioritised by state and territory governments
 - prices are set to encourage development of best practice examples of SDA.
 - c. transition support for people currently living in group homes, including through:
 - a transition pathway that provides access to advice, advocacy and support for people with disability to understand and explore their housing options, make decisions about transitioning to the housing of their choice, and receive support for that transition (see also Recommendation 7.42)
 - interim improvements in group home oversight and practices to ensure that people with disability living in group homes are safe and have greater choice and control during this transition period (see also Recommendation 7.41)
 - grandfathering arrangements for those people who wish to stay in their group home, including consideration of additional financial support to maintain financially viable group home arrangements where necessary
 - d. implementation planning undertaken through co-design with people with disability and the disability community, including:
 - a specific timeframe for ceasing construction of any new group homes (within the next two years)
 - a specific timeframe for ceasing placement of new residents in group homes (within five years)
 - a specific timeframe for completing transition of those residents who wish to move from group homes to alternative housing options (within 15 years)
 - development of an outcomes-based evaluation framework, tool and processes to track short-, medium- and long-term outcomes across the roadmap, and build an understanding of emerging best practice.

9.6. The approach to phasing out group homes: Commissioner Ryan's view

As outlined in section 9.5, evidence we heard builds a strong case for phasing out group homes. I agree with Commissioners Bennett, Galbally, Mason and McEwin that group homes place unacceptable limitations on the lives of people with disability and can expose people to harm and infringe on their human rights. I agree that a clear commitment and a comprehensive plan is required from Australian governments to phase out group homes. However, I believe that this change needs to be implemented carefully within a generational timeframe.

Fifteen years is an ambitious timeframe and, for some people, unnecessary. While it is true that group homes can limit residents' choice and control or expose them to harm, it is not true that every group home is a 'little institution' and that every resident needs to be moved from them in a fixed period of time such as 15 years.

Some group homes offer more privacy and comfort, and sufficient resident choice because of the way they have been purpose-built. Some have been located in places that maximise people's access to the community. Some people with disability will choose to continue living in them because, for various reasons, they regard their housemates as a 'family' and they may not have other informal supports from family or friends. In some cases, people's ageing or health needs require intense support. If they were to live in the community in a smaller group or on their own, they would spend more time in hospital or be admitted into residential aged care prematurely.

Finding accessible social housing options and transitioning thousands of unrelated people would require a significant number of new dwellings to be sourced or constructed. This would involve considerable capital costs. Additional NDIS operating costs associated with the transition of people from share accommodation to the community would also need to be considered.

In addition, the logistical challenge of transitioning this many people should not be underestimated. Furthermore, this transition would need to take account of the other housing and accommodation priorities, such as additional social housing for people who are currently homeless, including many people with disability, or redevelopment of an unquantified number of places in large residential centres in Queensland, Tasmania and South Australia. In my view, phasing out group homes would likely take longer than 15 years to achieve successfully.

While I agree with many of the key elements outlined in Recommendation 7.43, I recommend that a plan to phase out group homes should adopt a longer timeframe to allow for a successful transition that empowers group home residents to make their own choices about where they want to live.

In its evidence to the Royal Commission in preparation for Public hearing 32, the NDIA advised that as part of its work to transition away from traditional group home models, current NDIS pricing arrangements for SDA outline a staged plan to cease funding 'legacy SDA stock'.¹⁵⁸ This refers to congregate care housing for six or more people with disability in a single dwelling

that only houses long-term residents who already lived in this type of dwelling before their first NDIS plan.

In addition to these planned restrictions on funding legacy stock, I am of the view that as part of the Australian Government's commitment to reducing reliance on the group home model, no SDA approval should be given for new smaller group home models that house four to six people.

Recommendation 7.44 A roadmap to phase out group homes over a generational timeframe

Commissioner Ryan recommends the Australian Government and state and territory governments commit to phasing out group homes in stages. This commitment should include:

- a. immediate commitments to reduce the reliance on group homes, including:
 - not approving new four- to six-bedroom group home models for Specialist Disability Accommodation
 - only allowing new National Disability Insurance Scheme participants to enter group home accommodation as a last resort
 - prioritising moving existing residents of group homes to move into smaller groups over time on request, subject to need
- b. development of a staged approach to phasing out group homes, including consideration of housing availability, transition logistics and financial impacts.

Annual progress and outcomes should be reported to the Disability Reform Ministerial Council.

9.7. The approach to phasing out group homes: The Chair's view

The evidence clearly establishes that group homes very often expose people with disability to unacceptable risks of violence, abuse, neglect and exploitation. The evidence also establishes that group homes frequently have other serious disadvantages for residents. These include a lack of choice about co-residents; few opportunities to interact with the broader community; rigid and standardised regimes; and punitive cultures. Residents of group homes often have been given no choice but to live in such homes.

Sweeping changes are needed. Hence the many recommendations for reform we have made in this and other volumes. Some proposals relate to the regulation, monitoring and operations of group homes. But perhaps the recommendation of greatest long-term significance is for

improved access to alternative housing options, to enable people with disability to exercise genuine choice and control about where and how they wish to live (see Recommendation 7.42).

The point of the proposed reforms to the regimes governing group homes is to ensure they do not expose residents to unacceptable risks of violence, abuse, neglect and exploitation. The reforms are also designed to ensure residents of group homes are safe and receive the supports they require, to promote their overall wellbeing and to encourage their inclusion within the broader community.

It is important to appreciate all Commissioners agree that, regardless of what happens in the reform process, some residents of group homes will choose to remain in those homes. All Commissioners agree that residents making that choice should be supported. It follows that group homes are likely to continue in existence, potentially for four or five decades.

As a matter of principle, no person with disability should live or continue to live in a group home unless they make a free and informed choice to do so, with such decision-making supports as may be required. That is why a wide range of innovative and flexible accommodation options should be made available to people with disability as rapidly as resources permit. Unless this is done, people with disability, including people with intellectual disability or cognitive impairment, will not have the opportunity to exercise genuine choice and control over a fundamental component of their lives. However, the process of providing a wide range of new accommodation options will necessarily take a long time.

This process must be accompanied by greater and more effective scrutiny, regulation and supervision of group homes to promote the safety and wellbeing of residents and facilitate their inclusion within the broader community. Unless these reforms are implemented, residents of group homes, of whom there will continue to be many, for a considerable period will be exposed to unacceptable risks of violence, abuse, neglect and exploitation.

Over time, as more innovative and flexible accommodation options become available, presumably fewer people with disability will choose to enter or remain living in group homes. Depending on progress in providing alternatives, it is possible few will make that choice.

Nonetheless, in addition to people with disability who choose to remain in group homes, at least some people with disability will prefer to live in a group home environment, rather than take advantage of the alternatives on offer. They will need to be assured they can select their co-residents and will be safe and well supported. Our proposed reforms are intended to underpin those assurances. Within the framework of the proposed reforms, people with disability should be able to make a free and informed choice about the form of accommodation best suited to their needs and aspirations. The available choices should include accommodation in the nature of group homes, subject to the implementation of the reforms we propose.

The difference between the Chair's position and that of other Commissioners is relatively narrow. Making more flexible and innovative accommodation options available to people with disability, as all Commissioners support, will necessarily be a gradual and long-term undertaking, requiring very substantial resources. As that process unfolds, the likelihood is

that fewer people with disability will choose to enter group homes and more residents of group homes will choose to move to alternative supported accommodation.

The residual question is whether a person with disability should retain the ability to make a free and informed choice to live in a group home conducted in conformity with the extensive reforms we propose. The first general principle stated in article 3 of the *CRPD* is:

Respect for inherent dignity, individual autonomy, including the freedom to make one's own choices, and independence of persons.

Consistently with that general principle, the answer to the residual question in the Chair's view is 'Yes'.

Since on any view, group homes will continue to exist for a very long time, it is difficult to see how retaining them will impede the development of alternative forms of supported accommodation. Similarly, it is difficult to see how allowing people with disability to make a free and informed choice to remain or move to a (reformed) group home will contribute to the stigmatisation of people with disability.

None of this means that resources should be devoted to constructing or bringing into operation group homes additional to the current stock. There are good reasons for concentrating resources on making alternative forms of accommodation available to people with disability. But that is not the same as developing and implementing a plan to phase out group homes in their entirety.

Endnotes

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- 5 Transcript, 'Jennifer', Public hearing 20, 8 December 2021, P-142-161; Transcript, 'Charlotte', Public hearing 26, 29 August 2022; Transcript, Eliza, Public hearing 14, 25 May 2021, P-97; Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 13: Preventing and responding to violence, abuse, neglect and exploitation in disability services (a case study)*, 5 April 2022; Name withheld, Submission, 5 September 2019.
- 6 Transcript, Sherene Devanesen, Public hearing 3, 4 December 2019, P-292–93, P-295, P-297; Transcript, Ronald Sackville (Chair), Public hearing 3, 2 December 2019, P-10–14; Transcript, Jane Rosengrave, Public hearing 3, 2 December 2019, P-62–63; Transcript, Eliza, Public hearing 14, 25 May 2021, P-27, P-97; Submissions of Counsel Assisting the Royal Commission following Public hearing 14, 6 August 2021, p 84 [5]; Submissions of Counsel Assisting the Royal Commission following Public hearing 13, 6 August 2021, p 131 [21]; Submissions of Counsel Assisting the Royal Commission following Public hearing 20, as amended 31 March 2022, p 105 [330]; Name changed, private session, 'Fiorella'.
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- 15 See for example, Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-345 [33]; Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-79 [20]; Transcript, Naomi Anderson, Public hearing 3, 5 December 2019, P-348 [32].
- 16 Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-125 [27–33].
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Appendix

Minimum inclusive education data requirements

Student experiences data
<ul style="list-style-type: none">• Number of complaints made directly to educational authorities and/or oversight bodies about access and participation of students with disability in school ('Access' is ability to attend school, with intent to capture school gatekeeping complaints)
<ul style="list-style-type: none">• Number and proportion of students with disability who have an individualised education plan in place
<ul style="list-style-type: none">• Number and proportion of students with disability who participate in NAPLAN and their level of achievement across reading, writing and numeracy domains
<ul style="list-style-type: none">• Satisfaction with education among students with disability and/or family/supporters, and among students without disability and/or family/supporters for comparison
<ul style="list-style-type: none">• Number, proportion and rate of suspension, exclusion and expulsion of students with disability
<ul style="list-style-type: none">• Incidents and rate of the use of restrictive practices against students with disability
<ul style="list-style-type: none">• Number and type of reports involving violence or abuse against students with disability, including bullying and harassment
<ul style="list-style-type: none">• Number and type of reportable allegations and related findings, including of sexual abuse, per subject of allegation, school and system
<ul style="list-style-type: none">• Number and proportion of students with disability enrolled in mainstream classes in mainstream schools; special/segregated classes in mainstream schools; special/segregated schools; distance learning and home schooling, disaggregated by demographics and disability type and level of adjustment
<ul style="list-style-type: none">• Number and proportion of students with disability effectively transitioning from special/segregated schools to mainstream settings
Student with disability school outcomes
<ul style="list-style-type: none">• Full time and part-time enrolment and attendance rate among students with disability
<ul style="list-style-type: none">• Proportion of students with disability who have completed relationships and sexuality education
<ul style="list-style-type: none">• Proportion of Deaf students with access to bilingual learning that includes Auslan
<ul style="list-style-type: none">• Year 10 and year 12 retention rates
<ul style="list-style-type: none">• Proportion of young people (age <25) with disability who have both completed year 12 and have a high school certificate and/or Australian Tertiary Admission Rank (ATAR) score
<ul style="list-style-type: none">• Proportion of young people (age <25) with disability with a further education qualification

Progress in addressing barriers to inclusive education

- Number and proportion of complaints resolved at a school level, through conciliation and through regulatory intervention and systemic themes emerging from these complaints
- Number and type of regulatory actions taken in response to school non-compliance with inclusive education registration requirements (rules under the Education Standards, legal duties and reporting requirements)
- Number and proportion of teaching staff, including teaching assistants, who have completed a minimum number of units, with a focus on their legal obligation and inclusive education practices as part of Initial Teacher Education or professional development
- Number and proportion of behavioural specialists who have completed a minimum number of units, with a focus on children and young people and educational settings
- Number and proportion of school staff who meet the inclusive education capability framework

Acronyms and abbreviations

2021 Census data – Australian Bureau of Statistics Census of Population and Housing data

ABCB – Australian Building Codes Board

ACARA – Australian Curriculum, Assessment and Reporting Authority

Action Plan – Own Motion Inquiry into Aspects of Supported Accommodation – Action Plan

ADE – Australian Disability Enterprise

ADS – Australia's Disability Strategy 2021–2031

AERO – Australian Education Research Organisation

AHRC – Australian Human Rights Commission

AIHW – Australian Institute of Health and Welfare

AITSL – Australian Institute for Teaching and School Leadership

APS – Australian Public Sector

APSC – Australian Public Service Commission

APST – Australian Professional Standards for Teachers

APTOS – Applied Principles and Tables of Support

Bedford – Bedford Phoenix Inc

CESCR Committee – Committee on Economic, Social and Cultural Rights

CLI – Community Living Initiative

COVID-19 – Coronavirus disease, discovered in 2019

CPSU – Community and Public Sector Union

CRPD – Convention on the Rights of Persons with Disabilities

CRPD Committee – Committee on the Rights of Persons with Disabilities

CTC – Capacity to contribute

CYDA – Children and Young People with Disability Australia

DDA – Disability Discrimination Act 1992 (Cth)

DEA – Disability Employment Assistance program

DES – Disability Employment Services (current model)

DSA – Disability Services Act 1986 (Cth)

DSP – Disability Support Pension

DSS – Australian Government Department of Social Services

EAF – Employment Assistance Fund

EAP – Education Adjustment Program (Qld)

ECEC – Early childhood education and care

Education Standards – Disability Standards for Education 2005 (Cth)

FPDN – First Peoples Disability Network Australia

Framework for Action – Salamanca Statement on Principles, Policy and Practice in Special Needs Education and a Framework for Action

FWA – Fair Work Act 2009 (Cth)

FWC – Fair Work Commission

FWO – Fair Work Ombudsman

General comment no. 4 – Committee on the Rights of Persons with Disabilities, General comment no. 4 (2016) on the right to inclusive education, 16th sess, UN CRPD/C/GC/4 (25 November 2016)

General comment no. 5 – Committee on the Rights of Persons with Disabilities, General comment no. 5 (2017) on living independently and being included in the community, UN CRPD/C/GC/5 (27 October 2017)

General comment no. 8 – Committee on the Rights of Persons with Disabilities, General comment no. 8 (2022) on the right of persons with disabilities to work and employment, UN CRPD/C/GC/8 (9 September 2022)

ICESCR – International Covenant of Economic, Social and Cultural Rights

ICT – Information and communication technology

ILO – Individualised Living Options

ITE – Initial Teacher Education

ITE Standards and Procedures – Accreditation of initial teacher education programs in Australia: Standards and Procedures

LGBTIQA+ – Lesbian, gay, bisexual, transgender, intersex, queer, asexual and other sexually or gender diverse people

Mparntwe Declaration – Alice Springs (Mparntwe) Education Declaration

NAPLAN – National Assessment Program – Literacy and Numeracy

NCAT – NSW Civil and Administrative Tribunal

NCC 2022 – National Construction Code 2022

NCCD – Nationally Consistent Collection of Data on School Students with Disability

NDCO – National Disability Coordination Officer

NDDA – National Disability Data Asset

NDIA – National Disability Insurance Agency

NDIS – National Disability Insurance Scheme

NDIS Act – National Disability Insurance Scheme Act 2013 (Cth)

NDIS Code of Conduct – National Disability Insurance Scheme (Code of Conduct) Rules 2018 (Cth)

NDIS Commission – NDIS Quality and Safeguards Commission

NDIS Practice Standards – National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018 (Cth)

NDS – National Disability Services

NDS Industry Vision – Industry Vision for the Supported Employment Sector

New DES model – New Disability Employment Support model

NHHA – National Housing and Homelessness Agreement

OECD – Organisation for Economic Co-operation and Development

Own Motion Inquiry report – Own Motion Inquiry into aspects of supported accommodation
Inquiry report

Premises Standards – Disability (Access to Premises – Buildings) Standards 2010

Report of Public hearing 7 – Report of Public hearing 7: Barriers experienced by students with disability in accessing and obtaining a safe, quality and inclusive school education and consequent life course impacts

Respect@Work – Respect@Work National Inquiry into Sexual Harassment in Australian Workplaces, AHRC March 2020 report

SDA – Specialist Disability Accommodation

SDAC – 2018 Australian Bureau of Statistics Survey of Disability, Ageing and Carers

SEP – Special Education Program (Qld)

SES Award 2010 – Supported Employment Services Award 2010

SES Award 2020 – Supported Employment Services Award 2020

SHS – Specialist homelessness services

SHSC – AIHW Specialist Homelessness Services Collection

SIL – Supported Independent Living

SRF – Supported residential facilities (SA)

SRS – Schooling Resource Standard (SRS) framework described in the *Australian Education Act 2013* (Cth)

SRS – Supported Residential Services

SSP – Schools for Specific Purposes (NSW)

SWS – Supported Wage System

TAFE – Technical and further education

UN – United Nations

UNDRIP – United Nations Declaration on the Rights of Indigenous Peoples

UNESCO – United Nations Educational, Scientific and Cultural Organization

VCAT – Victorian Civil and Administrative Tribunal

VET – Vocational education and training

Wallis review – 2019 *APS Disability Employment Strategy 2016–18 evaluation*

WCAG – International Web Content Accessibility Guidelines

YDAS - Youth Disability Advocacy Service (Vic)



Royal Commission
into Violence, Abuse, Neglect and
Exploitation of People with Disability