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| Department of Health and Human Services Factsheet |
| Community Visitors and NDIS dwellings |

# What is the role of Community Visitors in the NDIS?

Community Visitors play a critical role in safeguarding people with a disability. Community Visitors will maintain their existing powers and functions in Victoria.

The *Disability Act 2006* has been amended to include new provisions so that Community Visitors have the same powers and functions in respect of National Disability Insurance Scheme (NDIS) dwellings as they do regarding residential services under the Disability Act.

NDIS dwellings are:

* Specialist Disability Accommodation (SDA) dwellings
* Short-term Accommodation Assistance (STAA) dwellings

## What can Community Visitors do?

The Community Visitor’s role is to:

* visit and inspect residential services and NDIS dwellings
* access information to fulfil the requirements of their role
  + make inquiries and see residents/NDIS participants.

Community Visitors can inspect any document relating to any SDA resident/ NDIS participant which is not a medical record. This includes documents required to be kept by a registered NDIS provider or disability service provider that is providing services at the NDIS dwelling or residential service under the Disability Act, the *Residential Tenancies Act 1997* (RTA), the *NDIS Act 2013*, or any regulation or rule made under the NDIS Act.

A medical record can be viewed only with the consent of the SDA resident/ NDIS participant or that person’s guardian.

Community Visitors will continue to inquire into:

* the appropriateness and standard of premises for the accommodation
* the adequacy of opportunities for inclusion and participation by residents in the community
* whether the accommodation is being provided in accordance with the applicable Acts
* whether information is being provided to residents as required by the applicable Acts
* any case of suspected abuse or neglect of a resident
* the use of restrictive practices and compulsory treatment
* any complaint made to a Community Visitor
  + any failure of an SDA provider to comply with the applicable Acts.

# Visiting NDIS dwellings

On 1 July 2019, new provisions of the RTA came into effect, incorporating SDA rental arrangements.

* Existing residential statements under the *Disability Act 2006* remain in place until residents and providers enter or establish:
* an **SDA residency agreement** (which gives the resident extra rights and protections), or
* a **residential tenancy agreement** (which gives the resident the same rights as anyone renting a standard rental property).

## Part 12A SDA residency agreements

NDIS participants living in SDA enrolled dwellings will have access to tenancy rights through the provisions of the RTA.

SDA residents can choose either an SDA residency agreement under new Part 12A of the RTA or a tenancy agreement under Part 2 of the RTA.

Amendments made to the RTA under the new Part 12A complement the Disability Act provisions for Community Visitors and provide the right of SDA residents to request to see a Community Visitor. Part 12A also provides Community Visitors with a right of entry to an SDA enrolled dwelling on the Community Visitors’ own initiative. The Disability Act maintains the Community Visitors’ powers and functions in relation to the SDA enrolled dwelling.

Under Part 12A of the RTA, an SDA provider must give written notice to the Director, Consumer Affairs Victoria within 14 days of any SDA residency agreement entered into or established.

The Director, Consumer Affairs Victoria is required to maintain a list recording details of SDA residency agreements which is provided to the Office of the Public Advocate for the purposes of arranging visits by Community Visitors.

## Part 2 residential tenancy agreements

The Disability Act also introduces new provisions which allow an SDA resident on a Part 2 tenancy agreement, or a person on the SDA resident’s behalf with consent, to request a visit from a Community Visitor.

A visit may be requested by calling 1300 309 337, TTY: 1300 305 612, or National Relay Service:133 677.

A Community Visitor may enter only those areas of the SDA enrolled dwelling allowed by the resident requesting the visit or the person requesting on the resident’s behalf.

## Short term accommodation assistance (STAA)

STAA is support and living assistance provided in an NDIS dwelling on a short-term basis to an NDIS participant by a registered NDIS provider. STAA cannot be provided in private homes.

Community Visitors may visit NDIS dwellings where STAA is provided with or without any previous notice and may perform or exercise the functions and powers mentioned earlier and as specified in section 130, subsection (3) of the Disability Act.

## Role of SDA and STAA providers in relation to Community Visitors

SDA and STAA providers must provide access to SDA enrolled dwellings and STAA dwellings by Community Visitors and must provide Community Visitors with reasonable assistance to perform their duties and functions under the Disability Act.

SDA providers or support providers who are present when a Community Visitor visits an SDA enrolled dwelling or STAA dwelling must keep a record of the visits.

## More information

* Refer to the [*Disability Act 2006*](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/A29B523F5852CF11CA25842A00190A2E/$FILE/06-23aa038%20authorised.pdf) Part 6 Division 7 for full details of Community Visitors and SDA provider responsibilities
* For further information about the Community Visitor scheme visit the [Office of the Public Advocate (Victoria) website](https://www.publicadvocate.vic.gov.au/our-services/community-visitors)
* Refer to the [*Residential Tenancies Act 1997*](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/065A626761BFD69FCA2584D60010A531/$FILE/97-109aa089%20authorised.pdf) for information on the new SDA laws, and the [Consumer Affairs Victoria web-site](https://www.consumer.vic.gov.au/housing/renting/types-of-rental-agreements/specialist-disability-accommodation):
* Questions about implementing the new SDA laws and Disability Act amendments may be sent to: [qualityandsafeguards@dhhs.vic.gov.au](mailto:qualityandsafeguards@dhhs.vic.gov.au)

To receive this publication in an accessible format phone 1800 783 783, using the National Relay Service 13 36 77 if required, or [email Disability and NDIS Branch](mailto:qualityandsafeguards@dhhs.vic.gov.au)  <qualityandsafeguards@dhhs.vic.gov.au>.

Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.

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