



Inquiry into the provision and regulation of supported accommodation in Queensland

**Report No. 44, 57th Parliament
Community Support and Services Committee
June 2024**

Community Support and Services Committee

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(from 13 February 2024)

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(26 November 2020 to 12 February 2024)

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Acknowledgements

The committee thanks Hon Stirling Hinchliffe MP, Member for Sandgate, for his assistance as Acting Chair from 1 March 2024 to 8 March 2024 and from 12 March 2024 to 22 March 2024.

The committee acknowledges the valued assistance provided by Queensland Government departments, and the insightful contributions from stakeholders, including residential services providers, community organisations, statutory entities and individuals.

The committee expresses its deep appreciation and gratitude to the advocates from Queenslanders with Disability Network and Queensland Advocacy for Inclusion for their work with residents in supported accommodation during the course of the Inquiry, and the many residents in supported accommodation for graciously allowing the committee to view a snapshot of their lives.

All web address references are current at the time of publishing.

Contents

Chair’s foreward	iv
Recommendations	vi
Report Summary	ix
1 Introduction	1
1.1 Inquiry referral	1
1.2 Inquiry process and stakeholder consultation	1
1.3 Terminology used in this report	2
2 Background	3
2.1 The deinstitutionalisation movement in Queensland	3
2.2 The Queensland Government’s provision and regulation of housing and residential services	4
2.3 Provision of disability services and the National Disability Insurance Scheme	4
2.4 Report of the Public Advocate of Queensland	5
3 Residential services in Queensland	7
3.1 Current legislative framework	7
3.1.1 Accommodation services that are exempt from being residential services	7
3.1.2 Review of the <i>Residential Services (Accreditation) Act 2002</i>	8
3.2 Profile of the residential services sector	8
3.2.1 Residents	10
3.2.2 Service providers	11
3.3 The importance of information about the sector/information gathering	12
4 The regulatory role of the Department of Housing, Local Government, Planning and Public Works	14
4.1 Registration	14
4.1.1 Building compliance	14
4.1.2 Fire safety compliance	15
4.1.3 Suitability of service provider and associates	16
4.1.4 Staff training and qualifications	17
4.1.5 The Register of Residential Services	19
4.1.6 Stakeholder views	20
4.2 Accreditation	21
4.2.1 Levels of accreditation	22
4.2.2 The accreditation process	22
4.2.3 Renewal of accreditation	22
4.2.4 Stakeholder views	23
4.3 Accreditation standards	24
4.3.1 Level 1 – base level standards	24
4.3.2 Stakeholder views	25
4.3.3 Level 2 – meal service standards	27
4.3.4 Stakeholder views	28

4.3.5	Level 3 – personal care services	29
4.3.6	Stakeholder views	31
5	Tenancy and rooming agreements	33
5.1	Differences between residential tenancy agreements and rooming accommodation agreements	33
5.1.1	Stakeholder views	35
5.2	Transparency of tenancy fees and charges	36
5.2.1	Visibility of NDIS Plans	36
5.3	Lack of transparency in tenancy/rooming agreements	36
5.3.1	Accommodation as a proportion of income	38
5.3.2	Security of tenure	39
6	Pathways in and out of residential services	41
6.1	Queensland Health	41
6.1.1	Access to Health Services in a residential service	43
6.2	Queensland Corrective Services	46
6.2.1	Barriers to re-entry and complex support needs	47
6.2.2	Corrections, disability, health, and homelessness	48
6.3	The Office of the Public Guardian and the Public Trustee of Queensland	49
6.3.1	Office of the Public Guardian	49
6.3.2	The Public Trustee of Queensland	50
6.3.3	Barriers for the Office of the Public Guardian and the Public Trustee	50
6.4	Pathways out of residential services	51
7	NDIS and service delivery in residential services	54
7.1.1	Conflicts of interest and transparency	55
7.1.2	Potential for abuse, neglect, and exploitation of NDIS participants	57
7.1.3	Oversight and safeguards—lowering levels of accreditation	58
7.1.4	NDIS funding for home modifications	59
7.1.5	NDIS funding to promote skills and independence	59
7.1.6	Restrictive practices	60
7.1.7	Choice and control	63
8	Residential service delivery – sustainability of the sector	54
8.1	Service providers	70
8.2	Sustainability	71
8.3	A case study: the ‘set and forget investment’	73
9	Regulation and oversight: entanglement, overlap, and inefficiency	75
9.1	Department of Housing, Local Government, Planning and Public Works inspectors	78
9.2	Office of the Public Guardian - Community Visitor Program	81
9.3	NDIS Quality and Safeguards Commission and Aged Care Commission	83
9.4	Complaints and fear of reprisal	84
9.5	The need for regulation, resourcing, oversight, and enforcement	85
9.5.1	The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability	87

9.5.2	The Public Advocate’s priority: person-centred regulation	89
10	Alternative models of service provision	92
10.1	Transitional accommodation	92
10.2	Supported housing provision	92
10.3	Supported accommodation in Australian jurisdictions	94
10.3.1	New South Wales	94
10.3.2	Victoria	95
10.3.3	South Australia	96
10.3.4	Tasmania	97
	Appendix A – Terms of reference from the Legislative Assembly	98
	Appendix B – The Public Advocate’s 29 Questions for committee consideration	99
	Appendix C – List of witnesses at public briefings and hearings	102
	Appendix D – Submitters	105
	Statements of Reservation	110

Chair's foreward

This report presents a summary of the Community Support and Services Committee's findings from the Inquiry into the provision and regulation of supported accommodation in Queensland.

The committee's task was to inquire into and report on the provision and regulation of supported accommodation, or residential services as defined under the *Residential Services (Accreditation) Act 2002*, and other shared living arrangements, in accordance with the terms of reference for the Inquiry.

Residents in supported accommodation are particularly vulnerable and at risk of institutionalisation. A significant number have complex support needs including disability, intellectual disability or mental illness, with limited or no family or community support.

During the Inquiry the committee visited a number of supported accommodation sites and was able to observe firsthand the supported accommodation currently available throughout Queensland. Many hearing witnesses also clearly articulated the current state of play in the sector.

Committee members were at times moved by what we saw and what we heard from submitters, and there was no doubt that the individuals working and providing the services for residents were passionate about their work and committed to ensuring residents were appropriately provided the services they need, and given the care they deserved.

The Inquiry was instigated in response to the 2023 report of the Queensland Public Advocate, *'Safe, secure and affordable'? The need for an inquiry into supported accommodation in Queensland*. The report detailed the current challenges facing the residential services sector in Queensland.

As this report alludes to, the quality of the accommodation varied depending on where it was located, from residential towers to converted motels and even rural homestay style premises. Whilst these sites were compliant with the required regulations, some of them were tired and required substantial attention.

I am pleased to see, from recent advice received from the department, that changes are occurring to the department's compliance practices as a result of the committee's Inquiry. I am encouraged by the department's efforts to ensure compliance to the standards required of residential services, that will potentially result in more fulsome information being available on the public Register, and better care provided to vulnerable residents.

It was notable that supported accommodation in rural and regional areas was sparse, and coupled with the substantial growth in population in Queensland in recent years, this gap will need to be addressed by government moving forward, to ensure that a growing gap does not become critical into the future, particularly as the population growth moves into Queensland's regions.

The committee noted that there are many supported accommodation models across the varying jurisdictions of Australia, and indeed worldwide, that could be referenced in addressing some of the Public Advocate's recommendations. I would suggest that after this report is noted by the Legislative Assembly, that deeper investigation and research into these models should be undertaken as part of any review of the *Residential Services (Accreditation) Act 2002*.

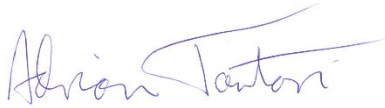
On behalf of the committee, I thank the Public Advocate, Dr John Chesterman, for his considered report and his subsequent recommendations submitted to the committee.

I also thank those individuals and organisations who made written and audio submissions and provided evidence at the public hearings held in Brisbane, Townsville and Cairns.

I am especially thankful for the work of representatives from Queenslanders with Disability Network and Queensland Advocacy for Inclusion for assisting the committee to engage and help residents to have their say during the Inquiry.

I also thank our Parliamentary Service staff and representatives from the Department of Housing, Local Government, Planning and Public Works for their assistance.

I commend this report to the House.

A handwritten signature in blue ink that reads "Adrian Tantari". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mr Adrian Tantari MP

Chair

Recommendations

- Recommendation 1** **2**
The committee recommends the Legislative Assembly note the report.
- Recommendation 2** **8**
The committee recommends the Department of Housing, Local Government, Planning and Public Works undertake a review of the *Residential Services (Accreditation) Act 2002* with a focus on improving the safeguards for residents living in residential services and the regulatory framework available to residential service providers to effectively deliver accommodation services.
- Recommendation 3** **13**
The committee recommends that the Department of Housing, Local Government, Planning and Public Works commence a periodic census of residents living in residential services.
The census should ask providers of accredited residential services to identify:
- the number of residents currently living in accredited levels 1, 2 and 3 residential services
 - the general nature of the disability and other support needs of residents
 - the number of residents who are current National Disability Insurance Scheme participants, and the number who do not receive this support
 - the services provided by the residential service provider that are not funded by the National Disability Insurance Scheme.
- Recommendation 4** **21**
The committee recommends the Department of Housing, Local Government, Planning and Public Works publish fulsome compliance conditions and census data gathered by the department (see Recommendation 3) on registered residential services in the publicly available Register of Residential Services, and update the Register to maintain its currency.
- Recommendation 5** **24**
The committee recommends the Department of Housing, Local Government, Planning and Public Works, as part of its review of the *Residential Services (Accreditation) Act 2002*, focus on improvements to the accreditation process that:
- reflect the contemporary sector and the shifting business structures that operate within it
 - support residents and promote their right to exert choice and control
 - combat isolation and institutionalisation in residential services
 - promote best practice in line with current disability research.

Recommendation 6 **40**

The committee recommends the Department of Housing, Local Government, Planning and Public Works consider how it can better support vulnerable tenants living in residential services, including:

- tenants issued with a Notice to Leave without sufficient notice, following an alleged breach
- modification of zero tolerance requisites in tenancy agreements with vulnerable residents.

Recommendation 7 **40**

The committee recommends the Minister for Housing, Local Government, Planning and Public Works consider an amendment to the *Residential Tenancies and Rooming Accommodation Act 2008* to incorporate a prescribed service agreement for residents in residential services.

Recommendation 8 **53**

Endorsing the Public Advocate’s Recommendation 2, the committee recommends the Department of Housing, Local Government, Planning and Public Works require providers of accredited level 3 residential services to arrange for individual independent assessments of the housing and support needs of all new residents, and bi-annual assessments of the housing and support needs of existing residents.

Endorsing the Public Advocate’s Recommendation 3, the committee recommends that the Queensland Government should consider funding and oversight of the provision of case management services to supported accommodation residents who currently have significant unmet support needs.

Recommendation 9 **69**

The committee encourages the Australian Government to significantly invest in the NDIS Quality and Safeguards Commission to better fund its capacity to conduct investigations and respond to complaints in state and territory jurisdictions.

The committee recommends the Queensland and Australian governments consider a more collaborative approach to investigating and addressing allegations of substandard service providers operating in Queensland.

Recommendation 10 **72**

The committee encourages the Queensland Government to consider grant opportunities or funding incentives to attract, train and retain staff in the sector to better support service providers, encourage investment in the sector in regional and remote areas of Queensland, and equally important, ensure service standards are maintained to better align with human rights identified in the *Human Rights Act 2019*.

The committee recommends the Queensland Government consider the provision of funding for personal services provided by residential service providers, for people in level 3 accredited residential services who are not eligible for National Disability Insurance Scheme support but have complex support needs, disabilities, intellectual impairments, or are otherwise at risk of isolation.

Recommendation 11

91

The committee recommends the Department of Housing, Local Government, Planning and Public Works prioritise reform of the regulation, compliance and oversight framework of residential services in Queensland. The committee recommends the new framework incorporate a ‘person-centred’ approach that reflects contemporary values and expectations including the *Human Rights Act 2019*, the *Human Services Quality Framework* and also the United Nations’ Convention on the Rights of Persons with Disabilities, and be guided by recommendations from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, particularly Recommendation 7.38.

Recommendation 12

91

The committee recommends the Department of Housing, Local Government, Planning and Public Works develop a well-trained and well-resourced compliance team to oversee regulatory activities, pro-actively conduct site visits, and ensure residential service providers are given information and support to maintain standards of service provision.

Report Summary

On 26 October 2023, the Legislative Assembly agreed to a motion that the Community Support and Services Committee inquire into and report on the provision and regulation of supported accommodation in Queensland. Supported accommodation, also known as level 3 residential services, provide accommodation services for four or more people and may also provide a food or personal care service. Residents in these facilities are particularly vulnerable and at risk of institutionalisation. A significant number have complex support needs including disability, intellectual disability or mental illness, and limited or no family or community support.

The Inquiry was instigated in response to the 2023 report of the Queensland Public Advocate, *'Safe, secure and affordable'? The need for an Inquiry into supported accommodation in Queensland*. The report detailed the current challenges facing the residential services sector in Queensland and posed a set of questions that in the answering might lead to meaningful reform.

As part of the Inquiry process the committee engaged with residents and other stakeholders across Queensland, conducted site visits with the assistance of two independent advocacy groups, and held public briefings and hearings. The committee received over 200 submissions, 68 were written by residents and 79 were audio submissions from residents, made with the assistance of the advocates.

Current service delivery arrangements and regulatory framework

The Queensland Department of Housing, Local Government, Planning and Public Works (the department) oversees the regulation and accreditation of residential service providers under the *Residential Services (Accreditation) Act 2002*. However, residential services do not receive government funding and are owned and operated by private service providers who operate on a for-profit basis.

The residential services sector is the subject of complex regulatory and legislative frameworks involving all levels of government, and in Queensland, the participation of numerous state government entities. The committee found that despite this, compliance, monitoring and safeguarding were almost non-existent, as residents, advocates and family members were either unsure of whom to contact when an issue arose, or too fearful of eviction to do so.

The committee recommends the department undertake a review of the *Residential Services (Accreditation) Act 2002* to improve safeguards for residents, better support residential service providers to achieve compliance, and strengthen the accreditation process to better reflect best practice and combat a downslide into institutionalisation.

In addition to regulatory complexities, the committee learned that the sector is not subject to any comprehensive regular census or meaningful data collection, and the publicly available Register of Residential Services is not regularly updated.

The committee recommends a comprehensive and periodic census be undertaken of residential services and their residents. The committee recommends that, as a priority, the Register be updated.

Standards of accommodation and care

The committee observed a wide variety in the quality of service provided in residential services. These ranged from caring, clean and nurturing environments where residents' needs and views were respected, to decrepit, unsuitable and substandard living conditions.

The committee received evidence from service providers who spoke to the difficulties in delivering this vital service in the community. Rising costs of service delivery and staffing, and the need to maintain operations 7 days a week, 24 hours a day, is not sustainable, they claim, without additional funding resources.

The committee recommends the department consider grant opportunities or funding incentives to attract, train and retain staff in the sector.

The NDIS has impacted many people living in residential services, enabling some to access supports they previously would have had to pay for out of their pension or allowance. The NDIS has impacted service providers as well, with some providers losing the funding they received as disability accommodation providers before the NDIS was implemented and others becoming NDIS providers to fund the provision of personal services to individual residents. Of concern, the committee heard of substandard NDIS supports, as well as a growing disparity between residents who receive NDIS and those who do not.

The committee recommends the Australian Government significantly invest in the NDIS Quality and Safeguards Commission to ensure standards of NDIS service are maintained, and that the Australian and Queensland Governments work collaboratively to investigate and address allegations of substandard NDIS service providers.

The committee recommends the Queensland Government consider the provision of funding of personal care services provided by service providers, for residents in level 3 accredited services who are not eligible for NDIS support.

Improving transparency and strengthening compliance

Residents in residential services are required to enter into a rooming accommodation or a general tenancy agreement under the *Residential Tenancies and Rooming Accommodation Act 2008*. The committee recommends that terms of tenancy agreements be clarified, and that particularly vulnerable residents have access to advocacy assistance or legal advice when signing rooming or service agreements.

It is vitally important that residential services are not used as a place where people exiting clinical settings and correctional settings are unloaded. The committee recommends that the department require residential services to arrange for individual independent assessments to determine the needs of new residents, and that the Queensland Government consider the provision of case management services to residents with significant unmet support needs.

The committee recommends the department prioritise reform of the regulation, compliance and oversight frameworks of residential services in Queensland to develop a person-centred approach, and develop a well-trained and well-resourced compliance team to oversee regulatory activities.

1 Introduction

1.1 Inquiry referral

On 26 October 2023 the Legislative Assembly agreed to a motion that the Community Support and Services Committee inquire into and report on the provision and regulation of supported accommodation in Queensland.

The committee subsequently determined to examine the terms of reference as part of an Inquiry into the provision and regulation of supported accommodation in Queensland (the Inquiry).

The terms of reference for the Inquiry include that the committee inquire into and report on:

- residential services as defined under the *Residential Services (Accreditation) Act 2002* (RSA Act) and other shared living arrangements
- the Public Advocate's '*Safe, secure and affordable*'?: *the need for an inquiry into supported accommodation in Queensland* (the Public Advocate's Report), including its two overarching questions and 29 detailed questions
- the views of residents and former residents in Queensland
- the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and the Independent Review of the NDIS reports as appropriate.

The committee was initially required to report to the Legislative Assembly by 22 March 2024; however, on 7 March 2024, the House passed a motion to extend the reporting date from 22 March 2024 to 7 June 2024.

1.2 Inquiry process and stakeholder consultation

Following the commencement of the Inquiry the committee determined to conduct a series of public hearings in Brisbane, Cairns, and Townsville with key stakeholders in the supported accommodation sector, receive written and audio submissions from residents and other stakeholders, and undertake site visits to a wide variety of supported accommodation models in Southeast Queensland and North Queensland.

The committee visited 14 residential services that varied in size and accreditation status. These services spanned urban, regional and rural settings.

The Public Advocate's Report encouraged the Queensland Government to engage 'an independent non-government organisation to support residents to contribute their views to the Inquiry on the services and support they receive, and associated regulatory requirements'.¹ In October 2023 the Department of Housing, Local Government, Planning and Public Works (DHLGPPW/the department) arranged for two independent advocacy organisations, Queenslanders with Disability Network (QDN) and Queensland Advocacy for Inclusion (QAI), to assist the committee by supporting residents to contribute their views on their accommodation services and support.² QDN and QAI engaged over 700

¹ The Public Advocate (Qld), '*Safe, secure and affordable*'?: *the need for an inquiry into supported accommodation in Queensland* (Public Advocate's Report), August 2023, p 11. The Public Advocate's 29 questions are at Appendix B.

² The Department of Housing transitioned to the Department of Housing, Local Government, Planning and Public Works (DHLGPPW) by a machinery of government change in February 2024. All references to DHLGPPW of the department include the former Department of Housing. DHLGPPW, correspondence, 8 November 2023.

residents in residential facilities around Queensland;³ designed plain English guides and factsheets about the Inquiry;⁴ assisted residents to make written and audio submissions; and where relevant, supported residents during the committee's site visits to residential services.

The committee received a total of 201 submissions, including:

- 68 written submissions from residents, submitted on their behalf by QDN and QAI
- 79 audio submissions from residents assisted by QDN advocates, 25 of which were transcribed and made available on the committee's Inquiry webpage.

Committee comment

The committee is grateful for the support, advice, and commitment of Queenslanders with Disability Network and Queensland Advocacy for Inclusion. These organisations provided valuable information and support to residents in level 3 residential services across Queensland and enabled them to provide valuable evidence to the Inquiry in the form of written and audio submissions.

This report considers the evidence received by the committee with regard to the terms of reference. The committee's comments and recommendations are provided throughout the report.

The committee's first recommendation is that the Legislative Assembly note the contents of the committee's report.

Recommendation 1

The committee recommends the Legislative Assembly note the report.

1.3 Terminology used in this report

To conform with the definitions in the *Residential Services (Accreditation) Act 2022*, this report refers to levels 1, 2, and 3 residential services (as set out in sections 42-44). The term 'supported accommodation' is commonly used in Queensland to refer to level 3 residential services and the term 'boarding house' is commonly used for level 1 residential services. Notably, the terms of reference set out that the Inquiry consider residential services at all accreditation levels.

In other Australian jurisdictions referred to in this report, different terms describe what is considered the equivalent to Queensland residential services: assisted boarding houses in New South Wales; supported residential services in Victoria; supported residential facilities in South Australia, and supported accommodation services in Tasmania.

This report considers the reports of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and the Independent Review of the National Disability Insurance Scheme. These reports refer to 'supported residential services', a term that includes Queensland's residential services.

³ Submission 197, p 4; Queensland Advocacy for Inclusion (QAI), public hearing transcript, Brisbane 23 February 2024, p 1.

⁴ Guides and factsheets were made available on the committee's Inquiry webpage: www.parliament.qld.gov.au/assistedliving.

2 Background

2.1 The deinstitutionalisation movement in Queensland

The movement of people with intellectual disability from large-scale residential facilities to community-based living, known as deinstitutionalisation, began in the 1960s and 1970s in most western and developing countries.⁵ This process of deinstitutionalisation represented a major shift in beliefs and ideology about the effectiveness of social welfare policy for groups of vulnerable people. In Australia, no formal policy statement justifying deinstitutionalisation as a social objective was prepared for public discussion. However, deinstitutionalisation across Australia was guided by principles such as human rights, the least restrictive alternative, and greater self-determination and choice over life decisions. Instead of putting people in institutionalised settings, the movement prioritised community placement and social inclusion.⁶

In Queensland, as in other jurisdictions in Australia, there were significant closures of large institutions. People with disability were relocated to community living arrangements in the 1980s and 1990s. The movement, given impetus by the recognition that cultures of abuse and neglect had seriously harmed people with disability in some institutional facilities, was accompanied by an increase in community-based accommodation provided by government and non-government services.⁷

According to a 2013 report of the Office of the Public Advocate, the deinstitutionalisation movement did not result in consistent and universally favourable outcomes for people moving from institutional settings into community living.⁸ During a public hearing Q Shelter attested that the principles that motivated the deinstitutionalisation movement were not supported by a housing and support strategy, which resulted in the development of privately owned boarding houses and hostels in response to the needs of people who had few or no genuine choices about where they lived.⁹

A study of residents who had previously lived in the Challinor Centre in Ipswich¹⁰ found that after 12 months of community living many had achieved significant improvements in adaptive skills, self-care, independent activity, domestic skills and general quality of life. However, the same study found some people had not progressed to living integrated lives in the community. This was more likely to be the case where the alternative residences they were relocated to were also institutional in character, and where they had their activities limited to socialising only with other people with an intellectual disability.¹¹

⁵ Office of the Public Advocate (Qld), *People with intellectual disability or cognitive impairment residing long-term in health care facilities: Addressing the barriers to deinstitutionalisation: A systemic advocacy report*, October 2013, p 5.

⁶ Submission 127, p 3.

⁷ Office of the Public Advocate, *A systemic advocacy report*, October 2013, p 12.

⁸ Office of the Public Advocate, *A systemic advocacy report*, October 2013, p 10.

⁹ Q Shelter, public hearing transcript, 23 February 2024, p 11.

¹⁰ The Ipswich Special Hospital was established as a psychiatric hospital on the outskirts of Ipswich in 1878. In 1968, it changed its name to the Challinor Centre with its purpose being the provision of services to people with intellectual disability. In the mid-1970s, the Challinor Centre had approximately 530 residents, but by 1995 the population had declined to 160 as residents started to be relocated from the centre. The relocation of all residents was completed in October 1998. L Young et al, 'Closure of the Challinor Centre II: An Extended Report on 95 Individuals after 12 Months of Community Living', *Journal of Intellectual and Developmental Disability*, 2002, p 53.

¹¹ L Young et al, *Closure of the Challinor Centre II*, 2002, p 53.

According to the Public Advocate, additional studies conducted since the deinstitutionalisation movement indicate that good outcomes are premised on community-based, person-centred planning, and appropriate support.¹²

2.2 The Queensland Government’s provision and regulation of housing and residential services

The Queensland Government’s regulatory role in the supported accommodation sector emerged with the introduction of the *Residential Services (Accreditation) Act 2002* (RSA Act). DHLGPPW administers the RSA Act and the associated Residential Services (Accreditation) Regulation 2018 (the RSA Regulation), and has had policy leadership of this legislation since 2002. The department also has policy leadership of the *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act).¹³

The department acknowledged that the RSA Act pre-dates the United Nations’ Convention on the Rights of Persons with Disabilities, ratified by Australia in 2008; the state’s Queensland *Human Rights Act 2019* (HRA); and the department’s own *Housing Principles for Inclusive Communities* (Housing Principles).

The department advised the committee that the Housing Principles are being implemented as part of the *Queensland Housing and Homelessness Action Plan 2021-2025*,¹⁴ and as part of that process the RSA Act will be subject to review.¹⁵ The department further advised of plans for the construction of over 50,000 new social homes by 2046 as part of the Queensland Government’s *Homes for Queenslanders* plan.¹⁶

2.3 Provision of disability services and the National Disability Insurance Scheme

In 2013, the National Disability Insurance Scheme (NDIS) was introduced by the Australian Government in the *National Disability Insurance Scheme Act 2013* (Cth) (NDIS Act). The NDIS was progressively implemented. Its full rollout across Australia was completed in 2020. The NDIS is delivered by the National Disability Insurance Agency (NDIA), and now supports more than half a million adults and children with disability.¹⁷

The implementation of the NDIS has impacted many people living in residential services in Queensland. It has enabled some people to access supports they previously would have had to pay for within their residential service.¹⁸

The NDIS has impacted residential service providers as well. Prior to the commencement of the NDIS in Queensland, disability accommodation providers could rely on an exemption from registration in the RSA Act whereby they received funding under the *Disabilities Services Act 2006* (DSA). With full implementation in 2020, disability accommodation providers no longer receive funding under the DSA. Those that offer NDIS funded Supported Independent Living (SIL) or Specialist Disability Accommodation (SDA) to NDIS participants must now comply with the NDIS regulatory framework. This is complicated because these regulations, in places, overlap with requirements under the RSA Act and the RSA Regulation.¹⁹

¹² Office of the Public Advocate, *A systemic advocacy report*, October 2013, p 11.

¹³ DHLGPPW, correspondence, 16 November 2023, attachment F, p 6.

¹⁴ DHLGPPW, correspondence, 16 November 2023, attachment F, p 7.

¹⁵ DHLGPPW, correspondence, 16 November 2023, attachment F, p 6.

¹⁶ DHLGPPW, correspondence, 16 November 2023, attachment F, p 6.

¹⁷ NDIS, *History of the NDIS*, [ndis.gov.au/about-us/history-ndis](https://www.ndis.gov.au/about-us/history-ndis).

¹⁸ Public Advocate’s Report, p 32.

¹⁹ DHLGPPW, correspondence, 16 November 2023, attachment F, pp 40-41.

The department noted that accessing NDIS support packages is prevalent among residents. The department acknowledged it has observed a shift in this accommodation sector, where residential service providers are delivering NDIS supports as well as their traditional residential services. Additionally, the department advised that some level 3 residential services are transitioning to level 1 services. By providing personal care services exclusively through NDIS, they no longer require a higher level of accreditation as a residential service.²⁰

The NDIS Quality and Safeguards Commission (NDIS Commission) is an independent agency within the Australian Government's Social Services portfolio. Also established in 2013, its key roles are to improve the quality and safety of NDIS supports and services by delivering nationally responsive regulation of providers and workers (including compliance and enforcement); advising the National Disability Insurance Agency on its functions; and delivering education, engagement, policy research, and market oversight.

A significant proportion of residents in all levels of residential services have NDIS packages. NDIS participants may receive NDIS funded supports from external providers, or internally from providers that have established themselves as NDIS providers.

Refer to Chapter 7 of this report for consideration of the impact of the NDIS on residential service provision.

2.4 Report of the Public Advocate of Queensland

The Public Advocate is a statutory position established under the *Guardianship and Administration Act 2000* to promote and protect the rights and interests of Queensland adults with impaired decision-making capacity through systemic advocacy. Dr John Chesterman is the current Public Advocate of Queensland. Pursuant to the *Guardianship and Administration Act 2000*, the Public Advocate tabled a report, *'Safe, secure and affordable?': the need for an inquiry into supported accommodation in Queensland* (the Public Advocate's Report), in the Queensland Parliament on 12 September 2023.

The Public Advocate's Report raised concerns about the provision and regulation of residential services in Queensland as defined under the *Residential Services (Accreditation) Act 2002*, also known as supported accommodation. The Public Advocate's Report identified key challenges to the human rights, wellbeing, and safety of residents living in supported accommodation, especially those in level 3 residential services, and set out the current challenges facing the residential services sector. It identified the complex regulatory networks in place in Queensland following the advent of the NDIS, which has led to entities from both state and federally regulated systems providing services and support to vulnerable residents.

As Public Advocate Dr Chesterman made one recommendation in his report: 'the Queensland Parliament should conduct an inquiry into the provision and regulation of supported accommodation in Queensland'.²¹ The Public Advocate's Report posed 29 questions which were broadly grouped inside 2 overarching questions; namely,

- *are the current residential services regulatory criteria appropriate, and appropriately monitored?*
- *is there sufficient regulatory oversight of the interplay between multiple systems, particularly the state-regulated residential services system, and the federally-regulated NDIS?*²²

²⁰ DHLGPPW, correspondence, 16 November 2023, attachment F, 2023, p 40.

²¹ Public Advocate's Report, p 11.

²² Public Advocate's Report, p 4.

The 29 questions from the Public Advocate's Report are set out in Appendix B and referred to where relevant in this report.

Committee comment

After consideration of evidence from stakeholders, including residents and their families, accommodation providers, advocates and representatives from state entities and community organisations, the committee concludes that the answer to both of the overarching questions posed by the Public Advocate's Report, *'Safe, secure and affordable'?: the need for an inquiry into supported accommodation in Queensland*, is no.

The committee makes a number of recommendations considered urgent throughout this report, to address and prioritise matters of concern identified in the supported accommodation sector in Queensland. The committee also makes a number of recommendations for future directions and strategies, to be addressed through Queensland Government reform.

3 Residential services in Queensland

3.1 Current legislative framework

Section 4 of the RSA Act defines a residential service in Queensland as providing accommodation to an individual for rent, with individuals having the right to one or more rooms but not the right to occupy the whole premises. The RSA Act also specifies that a residential service accommodates 4 or more residents who are not related, has shared facilities such as a bathroom, kitchen, common areas and laundry, and may provide a food or personal care service.²³ A residential service may also mean temporary accommodation, provided with case management, to assist persons to transition from, or avoid, homelessness.²⁴ Individual residents have separate rental agreements.

DHLGPPW oversees the registration and accreditation of residential service providers under the RSA Act. The RSA Act specifies three levels of service accreditation, depending on the services that are provided to residents, as set out in Figure 1 below.

To obtain accreditation, a residential service must meet the minimum standards for each level in the RSA Regulation. All residential services must be accredited at level 1.

Facilities operating at only level 1 accreditation are often referred to as boarding houses.

Residential services that provide a food service require level 2 accreditation.

Residential services that include a personal care service require level 3 accreditation. Most level 3 service providers also provide meal services and are therefore also accredited to level 2 accreditation, although this is not compulsory. Level 3 residential services are often referred to as supported accommodation.

Table 1: Accreditation framework

<i>Residential Services (Accreditation) Act 2004</i>		
All residential services must be accredited at level 1	Level 1	
	Accommodation provision	
Level 1 accreditation plus 2 and/or 3 depending on services provided	Level 2	Level 3
	Food and meal services	Personal care services

The RSA Act also sets out the requirements and accreditation criteria for residential services including compliance with prescribed building and fire safety requirements.²⁵

Refer to Chapter 4 of this report for further exploration of the regulatory framework for supported accommodation services in Queensland.

3.1.1 Accommodation services that are exempt from being residential services

The committee notes that residential services as defined by the RSA Act do not include the provision of housing to people under 18 years of age. Accommodation services for eligible young people are

²³ RSA Act, s 4.

²⁴ RSA Act, s 4(6).

²⁵ RSA Act, divisions 5 and 6.

provided by the state in the form of social housing assistance and financial support, and other services provided by Child Safety Services and Youth Justice Services.²⁶

Some accommodation services are not considered to be residential services under the RSA Act. These include:²⁷

- accommodation specifically for tourists such as backpacker hostels and bed and breakfasts
- student accommodation
- services regulated under other legislation including aged care services, authorised mental health services, private hospitals, and licences premises²⁸
- services that have funding agreements with a government agency, including premises owned by Aboriginal Hostels Limited, and services provided by the department and by the Department of Child Safety, Seniors and Disability Services (DCSSDS).²⁹

3.1.2 Review of the *Residential Services (Accreditation) Act 2002*

As noted in section 2.2 above, the department has committed to undertaking a review of the RSA Act in response to Action 18 of the *Queensland Housing and Homelessness Action Plan 2021-2025*.³⁰

Committee comment

As a priority, the committee considers the review of the RSA Act should look to improving safeguards for residents living in accredited residential services and delivering improvements for residential service providers to effectively deliver accommodation services, accounting for the recent changes in sector service delivery and the current economic climate.

Recommendation 2

The committee recommends the Department of Housing, Local Government, Planning and Public Works undertake a review of the *Residential Services (Accreditation) Act 2002* with a focus on improving the safeguards for residents living in residential services and the regulatory framework available to residential service providers to effectively deliver accommodation services.

3.2 Profile of the residential services sector

As at February 2024, there were 259 registered, levels 1, 2 and 3, residential services in Queensland, providing a maximum service capacity of 7,706 (beds). Of these, 40 residential services were accredited as level 3 services, with a capacity of 1,427 beds across Queensland.³¹

The residential services sector has experienced a decline over time since 2022, as illustrated in the below data provided by the department:³²

²⁶ Queensland Government, *Youth Housing and Reintegration Services*, qld.gov.au/youth/housing-accommodation/yhars-youth-housing.

²⁷ Queensland Government, *Definition of a residential service*, business.qld.gov.au/industries/service-industries-professionals/housing-accommodation/residential-service/definition.

²⁸ *Aged Care Act 1997 (Cth); Mental Health Act 2016; Private Health Facilities Act 1999; Liquor Act 1992*.

²⁹ These services are funded under the *Housing Act 2003* or the *Disability Services Act 2006*.

³⁰ DHLGPPW, correspondence, 11 March 2024.

³¹ DHLGPPW, correspondence, 11 April 2024; Public Advocate's Report, p 19: as at January 2023 there were 42 level 3 residential services with 1,538 beds available across Queensland.

³² DHLGPPW, correspondence, 11 April 2024, p 2.

Table 2, Historical data on the number of registered services since the commencement of the Residential Services (Accreditation) Act 2002

Time Period		Level 1		Level 2		Level 3		Total	
Year	Date	No. of services	Max capacity	No. of services	Max capacity	No. of services	Max capacity	No. of services	Max capacity
2012	30/06/2012	200	3836	51	2779	44	1577	295	8192
2013	30/06/2013	198	3825	55	2799	45	1551	298	8175
2014	30/06/2014	197	3982	53	2724	42	1477	292	8183
2015	30/06/2015	197	3823	52	2531	43	1577	292	7931
2016	31/05/2016	179	3622	50	2518	41	1521	270	7672
2017	30/06/2017	172	3596	52	2594	40	1529	264	7719
2018	30/06/2018	174	3542	51	2756	55	1677	280	7975
2019	30/06/2019	172	3782	49	2558	51	1694	272	8034
2020	30/06/2020	177	3741	46	2506	53	1743	276	7990
2021	30/06/2021	177	3756	44	2442	53	1758	274	7956
2022	30/06/2022	173	3948	42	2280	45	1581	260	7809
2023	30/06/2023	166	3803	39	2112	47	1525	252	7440
2024	29/02/2024	176	3953	43	2326	40	1427	259	7706

Level 3 residential services vary in size, with registered services reporting a maximum capacity of between 5 and 136 people.³³ Service providers reported they generally maintain occupancy at a level lower than their capacities.³⁴

Most level 3 services are located in the Brisbane, Toowoomba, Ipswich, Logan and Gold Coast regions, with two located on the Sunshine Coast. Outside of the southeast Queensland corner, and with the exception of two level 3 residential services in the Townsville region, there are no level 3 services available in Queensland’s rural and remote regions.

Committee comment

The committee notes the limited choices available for people and their families with regard to residential services in rural and regional Queensland, and that there may be no residential services anywhere in Queensland to cater for specific communities or cohorts (for example, First Nations people). While it is acknowledged that many people travel to the Southeast corner of Queensland to access residential services, the committee is cognisant that moving people away from their communities further alienates them from their support groups and families.

³³ Public Advocate’s Report, p 19.

³⁴ Submission 1, attachment, p 13.

3.2.1 Residents

The Public Advocate and QDN identified that residential services, especially those accredited at level 3, are often used by people with complex health needs. Many of these residents have intellectual disabilities, acquired brain injuries, mental health conditions, or issues with drug and alcohol use.³⁵ The majority of residents are in receipt of a disability support pension.³⁶

Notably, current and reliable information about residents is not collated by the department, which advised:

the department does not collect data about residents but observes that residents are more likely to be male, older, facing complex mental and/or physical health issues, in receipt of a Centrelink pension and may be receiving federally funded NDIS supports.³⁷

The Public Advocate spoke to the need for a sector census at the public hearing in December 2023. He stated:

We need to know more about the characteristics and service needs of residents. We know that residents in this sector have very high rates of disability and mental ill health and have very significant support needs. Anecdotally, occasionally we hear that a significant and possibly growing proportion of residents have mental health needs that are not being adequately met, and that is different according to the setting you go to.³⁸

QDN concurred, stating:

Overall, information and data is not available to inform actual needs of the industry. There is currently limited data captured in relation to resident characteristics, issues and needs as well as limited data about industry operating and sustainability issues.³⁹

In relation to the number of residents receiving NDIS supports, the department advised:

The department observes that the significant proportion of residents living in level 3 accredited residential services are recipients of NDIS services provided by either the residential service provider, an external disability support provider or a combination of both. However, the department does not gather data on this as part of its regulatory role.⁴⁰

Dr Chesterman observed that there is limited up-to-date information available about the extent to which the NDIS impacts the cohort residing in residential services, the services that they receive, and the residents' pathways in and out of residential services:

The advent of the NDIS has also seen a complex diversification of forms and sources of support. To take one example of this complex support picture, many current residents of accredited level 3 residential services are not actually receiving level 3 services but are receiving NDIS-funded support.⁴¹

The DCSSDS advised it was working in collaboration with the peak body for residential services providers, the Supported Accommodation Providers Association (SAPA)⁴², to 'build a broader understanding of the complexity of the profile of clients in level 3 supported accommodation

³⁵ Public Advocate's Report, p 19; submission 197, p 4.

³⁶ Department of Child Safety, Seniors and Disability Services (DCSSDS), correspondence, 19 January 2024, p 2.

³⁷ DHLGPPW, public briefing transcript, Brisbane, 27 November 2023, p 3.

³⁸ The Public Advocate, Public hearing transcript, Brisbane, 13 December 2023, p 2.

³⁹ Submission 197, p 6.

⁴⁰ DHLGPPW, Public briefing, Brisbane, 27 November 2023, p 3.

⁴¹ Public Advocate's Report, p 19.

⁴² The Supported Accommodation Providers Association (SAPA) is a not-for-profit and member-funded peak body for this sector, representing 23 level 3 accredited residential services in Queensland.

settings'.⁴³ DCSSDS advised that it had funded SAPA to undertake a small sample survey of residents in level 3 services in 2023, and provided results from the sample survey in its briefing to the committee.⁴⁴ SAPA advised the SAPA and DCSSDS survey of residents was conducted by Micah Projects with residents in four Brisbane-based level 3 residential services.⁴⁵

Committee comment

Based on evidence received, the committee finds that the results thus far published from the DCSSDS /SAPA small sample survey of residents indicate its findings are based on a case study of 11 residents in four residential services in Brisbane. Given the anecdotal and limited nature of this data, the committee considers it too limited in scale to be of statistical value.

Limited data means the Queensland Government has little capacity to monitor demographics within an individual residential service.

The QDN submission included a table of information detailing resident characteristics. QDN visited 752 residents, and captured information about 550 of them, across 22 facilities. Key features from this information were:

- residents' most common types of disability include acquired brain injury, intellectual disability, mental health disability, and psychosocial disability
- the majority of residents receive NDIS supports, with a smaller proportion receiving no additional support
- most residents enter a residential service from hospitals and mental health services. Some come from Queensland Corrective Services, non-government housing, and homelessness. A small proportion are referred by their families.⁴⁶

Committee comment

The committee recognises that there is a deficiency of reliable information about the residential services sector, and most significantly, its residents. While it is acknowledged that the transitory nature of some residents creates a challenge for the capture and maintenance of an accurate profile of the sector, it is clear from evidence received by the committee during this Inquiry that most residents are long-term, and that regular monitoring of the resident population is already undertaken by service providers in their respective facilities.

3.2.2 Service providers

Residential services operating under the RSA Act are not funded by the Queensland Government; rather, they rely on rent and fees charged to residents. The amount residential service providers can charge is not regulated, so costs vary between facilities.

In Queensland, residential services—particularly level 3 facilities—have historically provided an important emergency and transitional housing option for vulnerable Queenslanders. They have catered to people with complex medical conditions, disabilities, and mental health conditions. Such residents typically require some form of support to meet fundamental personal care, health and wellbeing, and community participation needs.⁴⁷

⁴³ DCSSDS, correspondence, 19 January 2024, p 13.

⁴⁴ DCSSDS, correspondence, 19 January 2024, Attachment 2.

⁴⁵ Submission 1, n.p.

⁴⁶ Submission 197, p 20.

⁴⁷ Submission 197, p 5.

SAPA advised the committee:

Without facilities such as ours, the most vulnerable people in our society are often lost in the cycle between Queensland Health, crisis accommodation, government provided housing and homelessness.⁴⁸

The committee met with service providers during site visits, received submissions from 7 residential service providers, and two submissions from SAPA. It heard evidence from service owners and operators during public hearings. The committee acknowledges that many service providers are family-run businesses whose leaders exhibited a passion for their sector, and spoke to the vital role their services play in the community housing sector.

3.3 The importance of information about the sector/information gathering

A number of stakeholders, including the Public Advocate, discussed the benefits of a regular census to be undertaken of the sector. Dr Chesterman submitted:

Conducting a wide-ranging census of the current support needs and provision of services to residential services residents, including services accessed through other systems (e.g. NDIS, aged care, mental health), would support a better understanding of the sector, the people who use these services, and the systems with which residents interact.⁴⁹

Dr Chesterman suggested a census could be repeated every five years to provide regular information about the sector.⁵⁰ Other submitters suggested a more frequent occurrence, as part of a general audit of the sector's service standards.⁵¹

The Queensland Human Rights Commission (QHRC) recommended that the Queensland Government collect, analyse, and publish de-identified data on who uses residential services so that the models of service, standards, and regulation align with the purpose of residential services and meet the needs of residents.⁵²

The Public Advocate's submission proposed the following recommendation for the committee to consider adopting:

Recommendation 1:

The Queensland Department of Housing, Local Government, Planning and Public Works should undertake a census of the support needs of residents living in accredited level 3 residential services. The census should ask providers of accredited level 3 residential services to identify:

- the number of residents currently residing in accredited level 3 residential services;
- the number of residents who are actually receiving level 3 services;
- the general nature of the disability and other support needs of residents; and
- the number of residents who are current National Disability Insurance Scheme participants.⁵³

Committee comment

The committee supports the views of the Public Advocate and other regulatory entities and endorses the Public Advocate's submission for a regular periodic census of the sector and its residents to be conducted, to identify the needs of residents, and key trends in the sector.

⁴⁸ Submission 1, n.p.

⁴⁹ Submission 16, p 4.

⁵⁰ Submission 16, p 4.

⁵¹ Submissions 128, 138, 139, 145.

⁵² Submission 139, p 2.

⁵³ Submission 16, p 2.

Recommendation 3

The committee recommends that the Department of Housing, Local Government, Planning and Public Works commence a periodic census of residents living in residential services.

The census should ask providers of accredited residential services to identify:

- the number of residents currently living in accredited levels 1, 2 and 3 residential services
- the general nature of the disability and other support needs of residents
- the number of residents who are current National Disability Insurance Scheme participants, and the number who do not receive this support
- the services provided by the residential service provider that are not funded by the National Disability Insurance Scheme.

4 The regulatory role of the Department of Housing, Local Government, Planning and Public Works

The DHLGPPW is responsible for registering services, initial accreditation, and review of accreditation of residential services. The department advises that it also undertakes ‘a range of compliance activities to ensure services continue to meet the standards’ in the RSA Regulation. This work is currently undertaken by the Regulatory Services unit within the department.

4.1 Registration

Pursuant to the RSA Act an operator of a residential service must be registered with the department,⁵⁴ and must achieve the following requirements in order to be registered:

- demonstrate that the property meets building compliance requirements (RSA Act, ss 28-29)
- demonstrate that the property meets fire safety requirements (RSA Act, s 33)
- the service provider and any associates involved in the management of the service are *suitable persons* (RS Act, div 4)
- provide any other relevant information requested by the responsible department
- pay the fee for registration.⁵⁵

Section 12(1) of the RSA Act requires that the chief executive give the service provider a registration certificate stating the following —

- (a) the service provider’s name;
- (b) the name of any associates of the service provider;
- (c) the address for the service of notices on the service provider;
- (d) the address of the registered premises;
- (e) the maximum number of residents permitted to occupy the registered premises under the prescribed building requirements;
- (f) the day of registration.

(2) If the service provider notifies the chief executive of a change in information recorded in the registration certificate, the chief executive may amend the registration certificate to record the correct information.

4.1.1 Building compliance

Prior to being accredited at level 1, 2, or 3, a residential service needs to be registered with DHLGPPW. To be registered, an operator must:

- demonstrate that the property meets building compliance requirements
- demonstrate that the property meets fire safety requirements
- be a suitable person under the Residential Services (Accreditation) Act 2002 (this also applies to associates of the operator)
- any other relevant information requested by the DHLGPPW has been submitted

⁵⁴ RSA Act, s 9.

⁵⁵ RSA Regulation, application fee for registration of \$339.90, as at May 2024.

- pay the fee for registration (currently \$360.30).⁵⁶

Section 10(2)(d) of the RSA Act requires that an application must be accompanied by a building compliance notice issued within the last 12 months.

The notice confirms the building is compliant with Residential Services Building Standard, *MP 5.7*.⁵⁷

MP 5.7 outlines the requirements for

- kitchen facilities
- laundry facilities
- common areas
- bedrooms, storage facilities
- dining rooms
- sanitary facilities
- vermin control
- ventilation
- early warning systems
- emergency lighting,
- emergency telephone access.⁵⁸

The relevant local council determines whether the premises are compliant with *MP 5.7* and issues the Building Compliance Notice.⁵⁹ Providers are also required to obtain a building compliance notice for renewing an accreditation, or if there are any material changes to the premises.⁶⁰

4.1.2 Fire safety compliance

Section 10(d)(2) of the RSA Act requires an application for registration to be accompanied by ‘the prescribed fire safety document’.

For Residential services with fewer than 6 residents a ‘fire management safety management plan’ is the prescribed fire safety document.

A fire safety management plan must state:

- the number of residents allowed to occupy the premises, taking into consideration the room size requirements stated in the prescribed building requirements for the premises;
- the proposed maintenance schedule for the premises’ fire safety equipment;
- the evacuation plan for evacuating the premises’ occupants, including, for example, occupants with an intellectual or physical disability, in the event of a fire on the premises;

⁵⁶ DHLGPPW, correspondence, 16 November 2023, attachment F, p 10.

⁵⁷ DHLGPPW, *MP 5.7 – Residential Services Building Standard (MP5.7)*, 16 November 2007, accessed 17 May 2024, hpw.qld.gov.au/__data/assets/pdf_file/0016/4831/qdcmp5.7residentialservicesbuildingstandard.pdf.

⁵⁸ *MP 5.7*, p 1.

⁵⁹ DHLGPPW, correspondence, 16 November 2023, p 9.

⁶⁰ Queensland Government, *Registering a residential service*, 6 July 2023, accessed 17 May 2024, business.qld.gov.au/industries/service-industries-professionals/housing-accommodation/residential-service/registering.

- the proposed training programs for the premises' occupants and staff of the service about— fire management and prevention; and emergency evacuation;
- a list of the premises' fire safety equipment, together with the brand name and model number, if any, of each piece of equipment; and
- the fire safety management plan must be accompanied by a copy of the building plans, in a reasonable scale, identifying the location of the premises' fire safety equipment and fire exits.⁶¹

For those with 6 or more residents a notice issued by Queensland Fire and Emergency Services ensuring the property is compliant with *MP 2.1 - Fire Safety in Budget Accommodation* is required.⁶²

MP 2.1 details criteria relating to:

- Early warning system
- Emergency lighting
- Occupant density
- Travel distances
- Emergency escape
- Protection of exit paths
- Exit signage
- Portable fire extinguishers
- Fire hose reels
- Firefighting water supply
- Smoke hazard management, and
- Building Code of Australia performance.⁶³

4.1.3 Suitability of service provider and associates

The committee was advised that when deciding if a potential service provider is a *suitable person*, the DHLGPPW may have regard to the person's criminal history including any convictions of the person for an offence against a residential services Act or a similar law of another jurisdiction.

The RSA Act prescribes other persons who are not *suitable persons* as: a child; if the individual does not have the qualifications prescribed under a regulation; if the individual is bankrupt or, as a debtor, taking advantage of a law about bankrupt or insolvent debtors.

Section 19 of the RSA Act describes an *associate* as a person who makes decisions, in the course of the service, that influence a) the operation of the service or the health, safety or b) the interests of residents in the service.

Upon renewal of accreditation, any new residential service providers and associates will be subject to a suitability check.⁶⁴

⁶¹ DHLGPPW, correspondence, 16 November 2023, p 10.

⁶² RSA Act, s 33(1); DHLGPPW, *MP 2.1 – Fire safety in budget accommodation buildings*, 4 April 2008, hpw.qld.gov.au/__data/assets/pdf_file/0015/4308/mp-2-1-fire-safety-accommodation.pdf, accessed 17 May 2024.

⁶³ DHLGPPW, correspondence, 16 November 2023, attachment F, p 11; MP 2.1.

⁶⁴ DHLGPPW, correspondence, 16 November 2023, attachment F, p 16.

4.1.4 Staff training and qualifications

The Public Advocate attested that staff training is not sufficient for the complex support needs of many people living in residential services, and suggested ‘further training to support knowledge and skills in areas such as disability, mental health, de-escalation of conflict, and the provision of trauma-informed care, were required’.⁶⁵

Currently, the RSA Act only has limited requirements relating to staff training. Section 42(c) requires the chief executive to give regard to ‘the way the service is managed and otherwise conducted by staff of the service’ as part of a level 1 accreditation. Section 6(2) of the RSA Regulation prescribes that, when accrediting a level 1 provider, the chief executive must consider whether it ‘ensures staff are adequately trained to carry out assigned duties within a safe and supportive environment’.⁶⁶

Section 44 states that the chief executive must, when considering a level 3 accreditation, have regard to the following matters in relation to a personal care service provided at a residential service:

- (a) the extent to which the service provider provides the personal care service in a way that meets the individual needs of the residents to whom the service is provided, protects their interests and maintains and enhances their quality of life generally;
- (b) the suitability of the staff members providing the personal care service;

The Regulation prescribes that ‘The service provider ensures staff who provide personal care services hold a current qualification for the administration of first aid and cardiopulmonary resuscitation’.⁶⁷ Notably, this does not relate to all staff who have contact with a resident—it only relates to those who provide the personal care services.

The NDIS Commission’s *Own motion inquiry into aspects of supported accommodation* (NDIS Commission Report) reported alleged negligence in residential services, such as providers failing to meet residents’ personal hygiene needs because of insufficient staffing ratios, or because staff were not following a resident’s behaviour support plan. An underlying cause of complaints, according to the NDIS Commission Report was ‘The capability and culture of the workforce, including the extent to which some support workers and management reflect the values and principles of the provider’, and whether the needs of the people they support genuinely motivate their performance.⁶⁸

The NDIS Commission Report found that,

Mainly it seems driven by the extent of information that support workers need to be across when supporting a person with high support needs, and how this can be problematic when new staff (such as agency staff) are engaged at short notice to fill shifts.⁶⁹

The committee received accounts of great variability in the quality of support staff in residential services. Many submitters were satisfied with the supports delivered by staff at their facility. There were also reports of inept, negligent, or abusive staff members, such as the following:

I made a series of complaints about the fees and services to [a provider] ... As a result of these complaints, I was punished and subject to abuse. I am double incontinent, and use incontinence pads, with which I require personal care support refreshing. I am changed and bathed by support workers, generally on my bed in my bedroom. Staff would frequently tell me that I needed to learn to use a bathroom unsupported. I believe they did this simply because it was not something that they wanted to assist with. At one stage

⁶⁵ Public Advocate’s Report, p 32.

⁶⁶ RSA Regulation, s 6(4).

⁶⁷ RSA Regulation, s 8(2).

⁶⁸ NDIS Quality and Safeguards Commission, *Own motion Inquiry into aspects of supported accommodation*, (NDIS Commission Report), January 2023. p 52.

⁶⁹ NDIS Commission Report, p 52.

staff took my incontinence pads off me and forced me to go without them to 'teach me continence'. I would soil myself in front of the other residents as a result, which was very humiliating.

Submission 193

QAI noted there are no mandatory training requirements or qualifications for staff providing personal care supports other than basic first aid. The Queensland Independent Disability Advocacy Network (QIDAN) advocated 'for all staff delivering personal care support to hold a minimum accredited qualification in disability, individualised supports and management of challenging behaviour'.⁷⁰

According to QAI, residents with complex psychosocial disabilities, substance use histories and/or intellectual disabilities (or potential combinations thereof) can receive minimal support from staff who are 'inadequately trained and lack the required knowledge and expertise to appropriately support them'. QAI recommended the introduction of minimum staffing ratios and mandatory training in the provision of disability support. This would include training to support people with psychosocial disabilities, intellectual disabilities, and/or substance misuse, as well as building skills in responding to challenging behaviours.⁷¹

WWILD submitted that a disproportionate level of abuse in residential services, and observed that 'Unfortunately, these situations are often met with apathy, or the violence is grossly minimized, by service providers'. WWILD noted that inadequately trained staff decisions sometimes lead to inappropriate co-tenancies. The submission provided the example of a woman with an intellectual disability who lived in a level 3 residential service (with SIL supports), placed in a room with a male roommate. The woman had an intellectual disability and was a survivor of sexual, domestic, and family violence. The man had a known history of violence and used sexual violence against the woman. WWILD submitted that workers supporting individuals with disability and complex needs should undertake training to increase knowledge of DFV, sexual violence and trauma.⁷²

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission), in its *Final Report* (RC Report), made the following finding in relation to supported residential services (SRS):

We have also heard that most people living in SRS have support needs beyond those a pension-level SRS can provide given that these services often have inadequate staffing levels. 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.⁷³

The Disability Royal Commission heard that people with disability have experienced violence and abuse from staff and co-residents, including 'physical violence, sexual assaults, sexual exploitation, psychological or emotional abuse, and harassment', as well as 'the use of coercive control and financial exploitation by staff members and the use of chemical and physical restraints'. This evidence, the RC Report stated, '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'.⁷⁴

⁷⁰ Submission 145, p 11.

⁷¹ Submission 128, pp 12-13, 19.

⁷² Submission 134, pp 3, 6.

⁷³ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report (RC Report), Volume 7, *Inclusive education, employment and housing*, September 2023, p 580.

⁷⁴ RC Report, Volume 7, p 617.

Q Shelter recommended funding a workforce development plan to include minimum training for all staff who work at a residential service, and that integrates training within the housing and homelessness service systems.⁷⁵

Carers Queensland wrote, in the absence of a national adult safeguarding framework, the Queensland Government mandate the adoption of formal safeguarding checks, including mandatory training for all staff in mental health and trauma informed service delivery'.⁷⁶

The NDIS Commission commissioned a literature review from Professor Christine Bigby, titled *Evidence about Best Practice in Supported Accommodation Services: What Needs to be in Place?* Professor Bigby outlined the following components for a best practice framework.⁷⁷ The Uniting Church in Australia, Queensland Synod (Uniting Church) noted the best practice model outlined by Professor Bigby, and endorsed the NDIS funded Frontline Practice Leadership training, provided by La Trobe University.⁷⁸

If private residential services are to operate in Queensland, we recommend that staff and operators of private residential services who provide personal care services, be required under the service standards to be trained in Frontline Practice Leadership and Active Support, in line with the proposed requirements for NDIS service providers.⁷⁹

Committee comment

The committee notes the concerns of stakeholders and submitters relating to the current lack of training, development, of suitability checks in place for staff working at a residential service. Given the history of abuse, negligence, and exploitation that have been inflicted upon people with complex support needs, we consider it vital staff working in residential services, especially those providing support services, are properly vetted, trained, and monitored.

We also recognise this quality of service is not always present. As such, it is our view that a higher degree of vetting, training, and development be required for managers and staff in residential services—particularly those staff who work closely with people with disability, intellectual impairments, and/or psychosocial conditions.

4.1.5 The Register of Residential Services

Once all requirements for registration are satisfied, the department will issue a Registration Certificate to the provider and add information about the residential service to the publicly available Register of Residential Services (the Register).⁸⁰

The Register of Residential Services includes information on the level/s of accreditation granted to the operator of the registered residential service, as well any conditions placed on the accreditation of the registered residential service.

At the public briefing on 29 April 2024, the department advised there were 272 registered residential services. As at the time of reporting (June 2024), the Register states as follows:

⁷⁵ Submission 127, pp 3-4.

⁷⁶ Submission 142, p 5.

⁷⁷ Bigby, C, *Evidence about Best Practice in Supported Accommodation Services – What Needs to be in Place*, prepared for the NDIS Quality and Safeguard Commission, Living with Disability Research Centre, La Trobe University, 2022, pp 4-5.

⁷⁸ Frontline Practice Leadership, <https://www.practiceleadershipresource.com.au/>.

⁷⁹ Submission 138, p 52.

⁸⁰ Queensland Government Open Data Portal, *Residential Services registered with the Department of Housing*, last updated 31 October 2023, data.qld.gov.au/dataset/residential-services-registered-with-the-department-of-communities-housing-and-digital-economy.

- that it was last updated on 31 October 2023
- there are 246 registered services
- there is one level 3 provider listed with conditions ascribed, with an end date of 10 November 2023
- 26 accredited services with an accredited expiry date that has passed, including one that expired in 2021 and 2 that expired in 2022.

Information about types of services provided, and the fees and other charges associated with each residential servicer, is not provided on the Register.

When questioned at the public briefing about there being only one registered provider with ascribed conditions published in the Register, Mr Terry Green, Acting Director, Regulatory Services, DHLGPPW, advised that the department was in the process of addressing reports of substandard service provision in submissions received to this Inquiry, and that placing conditions on accreditation 'is one of the tools available to us'.⁸¹

Mr Karl Frank, Executive Director, Regulatory Services, DHLGPPW, stated:

I can say that we are already aware of most of the issues and the respective services, but they are subject to quality improvement plans. They are not necessarily put on the website, but we do go out and work with them and look at what improvements can be made and put a quality improvement plan to them that they need to adhere to. That is another mechanism for us to work with those service providers. I do not know the exact number at this present moment, but I think we probably have about 10 out there right now that we are working with where we have quality improvement plans in place.

...

When we did a proactive program at the end of 2023 there were 25 level 3 service providers that we did go out to—it was kind of a spot inspection—and of those there were about 12, from memory, that did have quality improvement plans put in place at the time. That is the other avenue and way that we do work with service providers to get them back up to where they need to be.⁸²

In terms of publishing which services are currently subject to these processes, Mr Green stated, 'unfortunately with some of the other tools like the quality improvement plans we do not have authority to publish those under the legislation as it is currently drafted, so it is not something that is publicly available'.

4.1.6 Stakeholder views

Queensland Advocacy for Inclusion (QAI) submitted that more fulsome reporting of residential services would:

Increase accountability of residential service providers by requiring the Department of Housing to publicly report on all residential service provider's compliance with registration, accreditation standards and quality assurance measures.⁸³

The QHRC was also supportive and submitted that:

Ongoing centralised data collection and analysis would also assist in identifying trends and gaps in services and help government and private sector services to better meet the needs of the community. Publication of data on which decisions and planning is based assists transparency and accountability.⁸⁴

⁸¹ DHLGPPW, Public briefing transcript, Brisbane, 29 April 2024, p 7.

⁸² DHLGPPW, Public briefing transcript, Brisbane, 29 April 2024, p 7.

⁸³ Submission 128, p 20.

⁸⁴ Submission 139, p 8.

The Uniting Church called for a public register of private residential services ‘with sufficient information available about fees and charges for informed decisions to be made about the suitability of private residential services to meet resident’s needs’.⁸⁵

The department advised that because residential services are privately owned and operated, and the RSA Act does not specifically provide for the department collecting or publishing the costs and charges borne by residents in these services.⁸⁶

SAPA expressed caution in regards the level of information made publicly available:

Any public naming and shaming must be carefully considered. It is not appropriate for regulator communication, quality improvement plans or other compliance actions to be made public. These are permanent in nature and may irreparably harm the reputation of a facility that may be quickly rectified. Other care industry sectors do not publish this information unless in severe cases.⁸⁷

Committee comment

The committee suggests that a public Register of Residential Services should be more regularly updated, and should include all current compliance processes the Department of Housing, Local Government, Planning and Public Works is currently undertaking with specific service providers that have come to the attention of the department due to substandard service provision, including quality improvement plans.

The committee recognises that the publicly available Register must be a reliable source of information for potential residents, advocates and their families, providing not only up-to-date information about any compliance conditions, but also information about the services provided, and the fees charged as a proportion of a resident’s pension or allowance.

In supporting the recommendation of the Public Advocate in relation to undertaking a regular census of the sector (see Recommendation 2), the committee sees value in the collation and publication of census data into the public Register.

Recommendation 4

The committee recommends the Department of Housing, Local Government, Planning and Public Works publish fulsome compliance conditions and census data gathered by the department (see Recommendation 3) on registered residential services in the publicly available Register of Residential Services, and update the Register to maintain its currency.

4.2 Accreditation

Following the registration of a residential service, and in accordance with the RSA Act, the operator of the registered residential service is required to apply to the DHLGPPW for initial accreditation within 3 months of the date that the service was registered.⁸⁸ The chief executive may make an *accreditation decision* about a residential service, stipulating whether to accredit the service at a certain level and for how long, and whether to renew cancel or amend the accreditation.⁸⁹

⁸⁵ Submission 138, p 46.

⁸⁶ DHLGPPW, correspondence, 16 November 2023, attachment F, p 27.

⁸⁷ Submission 1, p 63.

⁸⁸ RSA Act s 35.

⁸⁹ RSA Act s 41.

4.2.1 Levels of accreditation

Residential services may be accredited at more than one level, however all residential services are required to be accredited at Level 1. A residential service is also required to be accredited at Level 2 if it includes the provision of a food service; and a residential service is also required to be accredited at Level 3 if it includes the provision of a personal care service.⁹⁰ Sections 42, 43 and 44 of the RSA Act set out accreditation criteria the chief executive must have regard to when making an accreditation decision.

4.2.2 The accreditation process

Accreditation involves a self-assessment by the service provider once they have commenced providing the service/s,⁹¹ and then detailed assessment by the DHLGPPW as to how well the registered residential service meets the accreditation standards as prescribed in Part 3 of the RSA Regulation. Registered residential services must then continuously maintain their accreditation for the life of the residential service.⁹²

To apply for accreditation, the operator of the registered residential service is required to:

- complete the Application Form
- complete the Self-Assessment Checklist
- pay any required fees, currently set at \$35.99 per resident being accommodated at the time of application; and
- provide any other information requested.⁹³

Following receipt of the accreditation documentation and payment, a Regulatory Analyst from the department conducts a site visit and drafts an Accreditation Report. The Inspector may make a recommendation about the residential service, granting a level and period of time (not longer than 3 years (RSA Act, s 49(1)), and include any conditions for accreditation.

For examination of the department's current resources to undertake inspections, refer chapter 9 of this report.

4.2.3 Renewal of accreditation

The department advised that the operator of the registered residential service, once accredited, is required to maintain their accreditation for the period that they are registered. As accreditation can only be granted by the department for a maximum period of 3 years, operators of residential services are required to apply for renewal of accreditation for their registered residential service prior to the expiry of their period of accreditation.⁹⁴

To apply for renewal of accreditation, the operator of the registered residential service is required to:

- complete the Application Form
- provide a building compliance notice for the registered premises issued within the previous 12 months
- provide the prescribed fire safety document for the registered premises

⁹⁰ RSA Act, s 3.

⁹¹ RSA Act, s 45.

⁹² DHLGPPW, correspondence, 16 November 2023, attachment F, pp 13-14.

⁹³ RSA Act, s 47; DHLGPPW, correspondence, 16 November 2023, attachment F, p 14.

⁹⁴ DHLGPPW, correspondence, 16 November 2023, attachment F, p 16.

- pay any required fees, currently set at \$35.99 per resident being accommodated at the time of application; and
- provide any other information requested, such as a Self-Assessment Checklist.⁹⁵

4.2.4 Stakeholder views

Stakeholders who provided comment on the accreditation process were critical of the self-assessment component of the application.⁹⁶ Q Shelter submitted that the governing regulations ‘should be linked to the needs of residents, and not self-assessment of residential service providers’.⁹⁷

In contrast, SAPA submitted that change to the assessment method was not required because the regulations are already ‘very prescriptive in nature and give limited of service innovation’.⁹⁸ Level 1 residential service provider 38KPR concurred, stating:

the current regulations governing Level 1 residential services are fit for purpose and do not require significant changes. However, our concern lies in the inadequate enforcement of these regulations, which has led to subpar standards among service providers.⁹⁹

QDN stated:

The *Residential Services (Accreditation) Act 2002 (QLD)* that governs regulation of the sector has been in place for over 21 years. During this time contemporary approaches to housing, disability and human rights have significantly changed. This includes Australia’s adoption of the United Nations Convention on the Rights of Persons with Disability, the introduction of the NDIS and legislating a Queensland Human Rights Act. These contemporary approaches have had little to no impact on the supported accommodation sector, with residents experiencing limited change in over 20 years.¹⁰⁰

The Public Advocate recommended that the Queensland Government should review the efficacy of retaining the current levels of residential services accreditation in view of the development over the past decade of relevant federal and state support schemes, including the National Disability Insurance Scheme.¹⁰¹

Committee comment

The committee acknowledges the criticisms of the current accreditation system, including the limited value of self-assessments, and the significant changes to the disability sector since the passing of the *Residential Services (Accreditation) Act 2002*.

As noted in the Public Advocate’s submission, the advent of the NDIS has greatly impacted how personal care and support services are delivered in residential services. It has led to a circumstance in which the level of accreditation is not necessarily an indicator of the services provided.

The committee is of the view that, in light of this changing landscape, the accreditation process and categories have become significantly diluted. There would be great value, we suggest, in reviewing the current accreditation system, and transforming it so that it more adequately reflects the contemporary disability sector, and protects those it supports.

⁹⁵ RSA Act, s 50.

⁹⁶ Submissions 127, 133, 138.

⁹⁷ Submission 127, p 4.

⁹⁸ Submission 1, p 6.

⁹⁹ Submission 148, p 1.

¹⁰⁰ Submission 197, p 6.

¹⁰¹ Submission 16, p 2.

Perhaps as important, the committee stresses the need for monitoring and enforcement of improved accreditation standards.

Recommendation 5

The committee recommends the Department of Housing, Local Government, Planning and Public Works, as part of its review of the *Residential Services (Accreditation) Act 2002*, focus on improvements to the accreditation process that:

- reflect the contemporary sector and the shifting business structures that operate within it
- support residents and promote their right to exert choice and control
- combat isolation and institutionalisation in residential services
- promote best practice in line with current disability research.

4.3 Accreditation standards

The RSA Regulation prescribes several matters which the delegate of the department must consider when making a decision regarding an application for accreditation or reaccreditation of a registered residential service. According to the department, these matters are generally referred to as standards.¹⁰²

4.3.1 Level 1 – base level standards

To satisfy level 1 accreditation status for a residential service under s 42 of the RSA Act, the chief executive must have regard to the following matters:

- (a) the extent to which the service provider recognises and observes the rights of each resident*
- (b) the standard of the registered premises and facilities in the registered premises*
- (c) the way the service is managed and otherwise conducted by staff of the service, and*
- (d) a matter, relevant to a consideration of a matter mentioned in paragraphs (a) to (c), provided for under a regulation.*

The Residential Services (Accreditation) Regulation 2018 prescribes matters that the assessor must consider for s 42(d) of the RSA Act, and whether the following matters apply:

- residents' right to privacy, dignity and confidentiality, recognised and respected by the service provider and staff
- residents are given information about the types of accommodation and services available, and that there is an individual agreement for residency for each resident
- recognition of the right of residents to live in an environment free of abuse and neglect
- a grievance mechanism in place whereby residents are free to raise and have resolved a complaint or dispute with the residential provider, or an external agency
- management of residents with complex or difficult behaviour in a way that is respectful of residents' dignity

¹⁰² DHLGPPW, correspondence, 16 November 2023, attachment F, p 28.

- access to external service providers, including an advocate, a professional case worker, and/or other providers of health, disability, welfare or other professional services
- entitlement of residents to independence and freedom of choice
- a safe, secure and comfortable living environment
- a safety and emergency plan in place, which includes procedures for any situation requiring immediate attention and remedial action
- transparent and accountable business management by the residential service provider, and
- fair and consistent human resource management, and the provision of sufficient staff on duty that are adequately trained for their duties.

During site visits to a number of residential services (all with level 1 accreditation), the committee observed an array of service provision. The committee was impressed by the efforts of all service providers to make a 'home' for their residents and was encouraged to observe in some facilities:

- clean and tidy common areas
- well maintained gardens and outdoor areas
- private rooms
- evidence of group activities
- secure entry and exit points, and secure parking
- clear evacuation direction, fire exits and equipment.

However, the committee was also concerned to observe:

- a significant proportion of residents sharing rooms with other residents, with temporary divisions installed to separate residents' beds, limiting personal space and privacy, and lacking lockable doors
- aged buildings and infrastructure, including inaccessible or cluttered pathways and stairways
- minimum security to enter and exit the residence
- poor ventilation in rooms, and only the provision of pedestal fans to moderate air temperature
- shared bathrooms and toilets, with many closed for repair.

4.3.2 Stakeholder views

SAPA submitted that the practical requirements of satisfying level 1 accreditation standards were as follows:

- furnished room (bed, mattress, pillow, side table, cupboard, window coverings, fan)
- communal area cleaning
- electricity
- water/utilities
- building and grounds maintenance
- access to onsite facilities, unassisted e.g. tennis court, swimming pool, pool table, table tennis
- room cleaning (personal space) generally once per week
- clean set of bed linen and towels

- generally, a single staff member onsite for emergencies 24 hours, 7 days
- telephone access.¹⁰³

Level 1 provider 38KPR argued that ‘a free-market approach, without direct funding for Level 1 residential service providers, underpinned by stringent regulatory oversight, can lead to innovation and accountability, ultimately benefiting residents. A focus on supporting compliant operators who demonstrate positive outcomes can lead to better engagement with existing and emerging support initiatives’.¹⁰⁴

Submissions received from residents, via advocates and family members, painted a different picture to the level 1 standards prescribed in the RSA Act. Submitters reported unhygienic bedding, inadequate cooling in summer, poor ventilation, noisy environments, and poor security. QAI noted that some facilities are inaccessible to people who use wheelchairs, while others have no air-conditioning or fans, which is very uncomfortable to residents—particularly those who face challenges regulating their body temperature.¹⁰⁵

My room has mould everywhere, and the paint is peeling from the ceiling. I know there is a lot of asbestos in there as well and this worries me.

Submission 14

[Name withheld] has a very small room with three windows that do not open, and one boarded up. There is a skylight window in the roof with no curtains and no option to open the window. Her bedroom door needs to be closed and locked when she sleeps for safety and privacy so there is no air to circulate.

Submission 17, from a resident’s family and advocates

The bathroom renovations have been stopped and only two of the bathrooms have been renovated. The other bathrooms have loose toilet seats and. Cockroaches come in at night, so there’s pest control issue. The disabled bathroom that I use is unsafe when there’s water on the ground. I have nearly had a fall using the disabled bathroom.

Submission 111

I share a room at the moment and the single beds are very small - I am very tall and don’t fit in my bed. Me and my roommate get on very well – we look out for each other. My roommate also got very sick recently with pneumonia – we were in hospital together. He also has red bumps or bites over him at the moment from a blanket that he used.

Confidential submission

I shared a room with a bloke who would regularly come home at 3am high on drugs. This made me relapse eventually - before [organisation] found me a place at [facility], I was in a mental health facility from drug induced psychosis, so this really affected me. The rooms were hot and there were no fans.

...

Two bathrooms, three showers, two toilets. Quality was awful - things were always broken and really dirty. I complained to [organisation], and they said I could go back out on the streets if I didn’t like it. In the end I left because it was a horrible place and living in addiction on the streets is better than living in addiction in [facility].

Submission 151

¹⁰³ Submission 1, p 18.

¹⁰⁴ Submission 148, p 3.

¹⁰⁵ Submission 128, p 9.

The thing about it is we, we got to get a porta loo, not enough toilets for all of us here... The porta loos after a while, you know people can't shoot straight and they get filthy and smelly and some of them miss the toilet and it's not very nice when you walk in.

Submission 166

I had a wall in my room that had water damage, that black and mould would always grow on it and I was made to believe that it was my responsibility to keep the mould under control.

Submission 167

4.3.3 Level 2 – meal service standards

The RSA Act provides that when making a level 2 accreditation decision for a residential service, the chief executive must have regard to the following matters concerning the food service provided in the course of the residential service:

- a) the quantity, quality, variety and nutritional value of the food provided;
- b) the preparation, delivery, service and storage of the food;
- c) a matter, relevant to a consideration of a matter mentioned in paragraph (a) or (b), provided for under a regulation.¹⁰⁶

In accordance with the RSA Regulation, s 7, operators of registered residential services who are providing a meal service to their residents must demonstrate that residents are provided with food and nutrition complying with the *Best Practice Guide for Healthy Eating in Supported Accommodation* (Guide for Healthy Eating), published by Queensland Health on the website of the Metro South Hospital and Health Service. The Regulation also provides for standards in regard to kitchen facilities: *to comply with the service provider's accredited food safety program, if any, or food standards code, standard 3.2.3*; and finally with regard to food handling and storage, whereby: *persons preparing and serving food observe personal hygiene and cleanliness practices, take reasonable action to minimise the risk of food contamination, and comply with the service provider's accredited food safety program, if any, or the food standards code, standard 3.2.2*.¹⁰⁷

The department's Accreditation Report provides additional guidelines for the inspection and assessment of food provision and hygiene standards, with evidence required of how the service provider demonstrates the standards. The department provided the committee with the Guide for Healthy Eating and the *Accreditation Report* as part of its written briefing materials.¹⁰⁸

The committee viewed a number of residential facilities providing food service during their site visits. The committee was impressed by some facilities that featured:

- professional, commercial-standard kitchens and dining areas
- meals catering for residents' dietary requirements
- facilities with a small choice of snacks and drinks available for residents to help themselves outside of meal times
- a makeshift 'shop' for the purchase of additional drinks and snacks

¹⁰⁶ RSA Act, s 43.

¹⁰⁷ RSA Regulation, s 7; Australia New Zealand Food Standards Code under the *Food Standards Australia New Zealand Act 1991* (Cwlth).

¹⁰⁸ DHLGPPW, correspondence, 16 November 2023, attachment F.

- residents encouraged to participate in meal preparation or to suggest meal plans
- residents allowed to have their own fridge in their rooms.

Conversely, the committee was deeply concerned to observe some food service provision that featured:

- outdated domestic-style kitchens in extreme state of filth and clutter with clear evidence of vermin and pests
- meal service areas locked at certain times of day, outside of scheduled meal times
- meals prepared for residents to consume in their rooms and not in a common dining room
- frozen and pre-prepared meals for weekends, for residents to reheat, or in some cases, eat cold.

4.3.4 Stakeholder views

The most common theme that emerged from residents' submissions to this Inquiry was meal service: food quality, portion size, variety, and availability. Some residents reported favourably about their meal service, but many expressed dissatisfaction in relation to the portion size, meal variety and availability of their meals.

We have BBQ, we have mingle Mondays. We have a great chef that looks after everybody and the staff is just brilliant, I can't speak more highly of the staff.

Submission 164

Food is supplied but I'm not a big eater. I have a hot meal provided by the village at lunch time and then I just take some yoghurt and fruit for tea that I buy myself, which I keep in a fridge in my room. This is partly because sitting in the mess hall with other residents during a mealtime makes me anxious.

Submission 183

Lunch was a hot dog on a roll. You were only allowed 1 serving per meal. They were served at strict times and if you missed it you'd go hungry. The tea and coffee was never enough for everyone even in terms of the sugar and the milk was powdered. I had to buy my own fridge and stock it with my own food out of my own pocket.

Submission 151

The food here is lacking a little bit in quantity and quality at times. I think I could cook probably better than the chef that they have. I wouldn't like them to actually know that.

Submission 182

The biggest problem is the food – it is always the same and not very nice. Everyone here feels the same. For example, we have two-minute noodles with garlic for dinner every Monday, sandwiches for dinner on Wednesday and Saturdays we have a BBQ which is just two sausages each with 1 chicken skewer and some salad or coleslaw.

Confidential submission

Submissions from advocates and from families of residents were critical of the food quantity, quality and availability. Submitters expressed concern that residents did not have a say in when they eat or what they eat.¹⁰⁹ QAI referred to the “burrito-test”: whether a person could get up at 3.00 am and

¹⁰⁹ Submissions 128, 137, 138, 145, 197.

microwave themselves a burrito or order one to be delivered to their room, without first seeking someone else's permission. QAI stated:

The question is not about whether the person can physically or logistically complete this task, but whether they have the freedom and ability to do so independently of others. If the answer is no, and the person does not have access to kitchen facilities, does not control what or when they eat and/or is not able to decide who enters the facility at any given time of the day, then they are likely residing in an institutional setting.¹¹⁰

Micah Projects suggested that food services should be held to the food safety standards and also meet nutritional guidelines similar to those for early education and care providers.¹¹¹

In contrast, service providers attested to the challenges of providing a meal service that is both of high nutritional quality and variety and cost effective in the current economic environment, with the Guide for Healthy Eating considered too prescriptive, unrealistic and unsuitable for their cohort of residents and their diverse nutritional requirements.¹¹² Sunnycove Maroochydore stated:

The meal service is at the discretion of the provider. It can be as bad or as good as the provider desires and there is not a meaningful authority providing accountability or pathway for complaint or a method to compare the meal service to other meal services to know whether it is relatively good or bad. We believe we provide an above average in quality and value meal service, however, are not able to show objective evidence of that because there is not a way to compare with other similar meal service providers. It is frustrating especially with the relatively rapid increase in food costs recently. Do we lower the quality of our meal service so that we can provide a cheaper option for our residents or do we maintain quality and increase the price? Those residents that can afford it, want quality maintained and those that cannot want a cheaper option.¹¹³

4.3.5 Level 3 – personal care services

Residential services with level 3 accreditation provide a personal care service to residents. They have level 1 accreditation, and many have level 2 accreditation to provide a meal service. To achieve level 3 accreditation, the operator of the residential service must also provide evidence for each level 1 matter, and if they are providing a meal service to their residents then they must also provide evidence for each level 2 matter.

Personal care services is defined in Schedule 2 of the RSA Act:

personal care service means a service of regularly providing a resident with—

- (a) help in—
 - (i) bathing, toileting or another activity related to personal hygiene; or
 - (ii) dressing or undressing; or
 - (iii) consuming a meal; or
 - (iv) meeting a mobility problem of the resident; or
 - (v) taking medication; or
- (b) help in managing the resident's financial affairs.

¹¹⁰ Submission 128, p 10.

¹¹¹ Submission 192, p 3.

¹¹² Submissions 30, 143, 152.

¹¹³ Submission 30, p 2.

Section 44 of the RSA Act provides that, when making a decision for a residential service at level 3 accreditation, the chief executive must have regard to the personal care service provided in the course of the residential service-

- a) the extent to which the service provider provides the personal care service in a way that meets the individual needs of the residents to whom the service is provided, protects their interests and maintains and enhances their quality of life generally;
- b) the suitability of the staff members providing the personal care service;
- c) a matter, relevant to a consideration of a matter mentioned in paragraph (a) or (b), provided for under a regulation.

The RSA Regulation sets out the matters prescribed for level 3 accreditation:

- human resource management, whereby staff who provide personal care services hold current qualifications in first aid and in cardiopulmonary resuscitation
- access to external service providers for the delivery of personal care services
- financial and clerical support, whereby residents maintain management of their own financial affairs or have entities external to the residential service to help with financial decisions
- assistance with medication, when requested, in accordance with the guideline for medication assistance in residential services with level 3 accreditation published by the department on the department's website
- residents have a choice of health care provider and are encouraged to maintain their health
- residents are supported to ensure they have access to and wear appropriate clothing
- hygiene management, whereby personal hygiene needs are met consistent with residents' individual needs and respect for dignity and privacy
- the preservation of family relationships and informal social networks, recognised and supported
- residents participate in decision making about the services they receive and are able to exercise choice and control over their lifestyle, if this does not infringe on the rights of other residents.¹¹⁴

The department advised that it had developed a Site Audit Tool to assist inspectors in the collection of evidence to assist in the making of an accreditation decision. The department provided a copy of this checklist with its written briefing to the committee.¹¹⁵ The department advised that during the site audit, the Inspector 'will endeavour to interview 10% of residents and sight a minimum of 10% of the resident records'.¹¹⁶

Operators of registered residential services are required to demonstrate compliance with the *Guideline for Medication Assistance*, developed in consultation with Queensland Health, for residents who request assistance with their medication. The department advised that one purpose of the Guideline is to 'support service providers to develop policies and procedures, implement safe practices and to minimise the risk of harm from inappropriate use of medication'.¹¹⁷

The RSA Regulation require staff who provide personal care services to hold a current qualification for the administration of first aid and cardiopulmonary resuscitation.

¹¹⁴ RSA Regulation, s 8.

¹¹⁵ DHLGPPW, correspondence, 16 November 2023, Attachment 1.

¹¹⁶ DHLGPPW, correspondence, 16 November 2023, attachment F, p 30.

¹¹⁷ DHLGPPW, correspondence, 16 November 2023, attachment F, p 29.

4.3.6 Stakeholder views

Many residents who provided submissions to the Inquiry expressed their contentment with the services they received from their level 3 provider.

I've lived here for 20 years, it's good here. They take care of me. It's a good place to be. I feel safe here. I can go out and do things I want to do – I like to go shopping, go to the salvos and chemist warehouse. I get taken out by the support workers that work here. I don't know how much I pay to live here because the Public Trustee transfers rent straight to the office here. My clothes are washed every day by my support worker.

Submission 125

If any problems they look after me. Don't abuse residents. Lot of respect.

Submission 83

I really do like living here. It's a great place to be. I couldn't really suggest any great improvement. The management is sympathetic, the staff are helpful and the food's very good. The only thing I would suggest perhaps if there was some effort to improve the building itself. I would like those improvements to be some more bathrooms and a general improvements of the state of the building in which we live. That's about all I would like really.

Submission 170

There were also submissions from residents that were not satisfied with their personal care.

The only changes I see there should be a level above level 3 for people like where I live, there's 61 of us and we've all got a mental and or physical disability and I feel like some days we can cope and others you can't and that's where there should be like a level 3A facility term where more funding is, is there to help the residents physical and mental needs, which aren't a consistent everyday occurrence.

Submission 101

I don't feel as though the [facility] meets the standards required in terms of medical services that they provide. The medicine is provided to residents by people with no medical training – they are just cleaners who dole out medication at night.

Submission 14

The staff aren't really helpful, I don't really get much help, more help would be nice.

Confidential submission

Stakeholders from the sector, including service providers, attested to problems associated with the suitability and provision of personal care services.

The Public Advocate observed that the advent of the NDIS has significantly affected the delivery of personal care and support services in residential services, as residents receive personal services through NDIS-funded services. Dr Chesterman speculated that despite not providing personal care services to residents, some service providers may choose to retain level 3 accreditation due to the land tax exemption in the *Land Tax Act 2010*, that applies to a residential service accredited at level 3 under the *Residential Services (Accreditation) Act 2002*.¹¹⁸

¹¹⁸ *Land Tax Act 2010*, s 51A; submission 16, p 6.

Submissions to the Inquiry attested to the limitations of NDIS-funded services in fulfilling appropriate personal care. For example, when an NDIS-funded service cancels a visit, and it falls on the service provider to undertake the care.¹¹⁹

In terms of maintaining standards in this changing environment, SAPA submitted that the *personal care* definition needed to be altered to reflect current practice and viability for providers.

The submission stated; ‘Supported Accommodation does not have the capacity and never has carried out 1:1 resident care beyond ad-hoc emergencies’.¹²⁰

Residents also raised that not all their support needs occurred at a time when their NDIS-funded support worker was available, and there were times when unplanned needs arose.¹²¹ Operators of Tarampa Lodge also attested to this in their submission:

Currently when external providers attend site to deliver a personal care service, they attend for a specific timeframe then leave, leaving Tarampa staff to assist residents when they soil themselves, or require other forms of personal care, including requiring another shower.¹²²

Committee comment

During this Inquiry and especially notable whilst undertaking site visits of residential services, the committee observed a disconnect between the standards set out in the RSA Act and RSA Regulation, and what is actually provided to vulnerable residents. The committee is concerned that it is not in every instance the legislative framework that is the problem, but rather that compliance with the legislation has broken down and is not being regularly monitored, or the standards not adequately or regularly enforced.

¹¹⁹ Submission 122, p 3.

¹²⁰ Submission 1, p 62.

¹²¹ Submission 197, p 15.

¹²² Submission 122, p 6.

5 Tenancy and rooming agreements

The *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act) outlines the rights and responsibilities of tenants, property managers/owners involved in residential renting in Queensland. The RTA Act applies to certain types of supported accommodation. Residents are generally covered under rooming accommodation agreements (Form R18), but can ‘opt in’ to a residential tenancy agreement (Form 18a).¹²³

Residents can be issued a Notice to Leave a property immediately for a ‘serious breach’. This can lead to residents losing any services delivered by the provider. Other supports, such as an NDIS package, may also be lost, because service providers can no longer deliver services.¹²⁴

The Public Advocate’s Report queried whether the legislation governing residential rooming agreements in Queensland is sufficient to protect the rights of residents of residential services.¹²⁵

5.1 Differences between residential tenancy agreements and rooming accommodation agreements

A residential tenancy agreement (or general tenancy agreement) covers tenancies for houses, townhouses, and units.¹²⁶ A rooming accommodation agreement covers tenancies with shared facilities, such as boarding houses, supported accommodation services, and off-campus student accommodation.¹²⁷

Section 77(4) of the RTRA Act provides that rooming accommodation agreements must:

- be written clearly and precisely
- fully describe any services to be provided as part of the agreement
- state the rate and payment schedule of rent
- delineate what portion of the rent is attributable to accommodation, food services, personal care services, or any other services.

Chapter 5 Part 1 of the RTRA Act sets provisions for ending residential tenancy agreements. Chapter 5 Part 2 sets provisions for ending rooming accommodation agreements. In either case lessors must provide a ‘Notice to Leave’ to a resident if they want them to vacate. The below table shows how much notice must be given in various scenarios, subject to the agreement type:

¹²³ Submission 121, p 1; Tenants Queensland, QSTARS, *Moving into a room*, qstars.org.au/rooming-residents/moving-into-a-room/.

¹²⁴ Public Advocate’s Report, p 39.

¹²⁵ Public Advocate’s Report, p 12.

¹²⁶ Queensland Government, Residential Tenancies Authority (RTA), *General tenancy agreement fact sheet*, August 2023, rta.qld.gov.au/forms-resources/factsheets/general-tenancy-fact-sheets, accessed 27 May 2024.

¹²⁷ Queensland Government, RTA, *Rooming accommodation fact sheet*, January 2023, rta.qld.gov.au/forms-resources/factsheets/rooming-accommodation-fact-sheets, accessed 27 May 2024.

Table 3: Timeframes for ending residential tenancy agreements vs rooming accommodation agreements.

Grounds	Residential Tenancy ¹²⁸	Rooming Accommodation ¹²⁹
End of fixed term agreement	2 months	14 days
Unremedied Breach (arrears – residing less than 28 days)	7 days	Immediately
Unremedied Breach (arrears – residing 28+ days)	7 days	4 days
Unremedied breach - general	14 days	2 days
Serious Breach	N/A for privately owned accommodation	Immediately

Provisions for issuing a Notice to Leave immediately because of a serious breach are defined in Section 370 of the RTRA Act:

- (1) A provider may give to a resident a written notice requiring the resident to leave the rental premises immediately if the provider reasonably believes—
- (a) the resident has used the resident’s room or common areas for an illegal purpose; or
 - (b) the resident, or a guest of the resident, has intentionally or recklessly—
 - (i) destroyed or seriously damaged a part of the rental premises or a facility in the rental premises; or
 - (ii) endangered another person in the rental premises; or
 - (iii) significantly interfered with the reasonable peace, comfort or privacy of another resident or another resident’s appropriate use of the other resident’s room or common areas.

The Public Advocate noted that immediate eviction poses a challenge to people in level 3 residential services as they can find it difficult to find alternative accommodation. Stakeholders also indicated the criteria for removing tenants with a rooming accommodation agreement can be challenging; especially in environments where people are not in receipt of sufficient supports to assist with behavioural management and de-escalation.¹³⁰

As noted above, it is possible for tenants of residential services to be required to sign residential tenancy agreements. This possibility would be at the discretion of the provider. As illustrated in Table 3 above, such agreements afford residents greater protections from evictions. The required components within tenancy agreements, however, vary from rooming accommodation agreements in other ways as well.

Both tenancy agreements and rooming agreements require both the standard terms of the agreement and any special terms (sections 61 and 77 of the RTRA Act). Schedules 1 and 4 of the RTRA Regulation prescribe the standard terms of for each type of agreement. Special terms, on the other hand, are less

¹²⁸ RTA, *Notice to Leave (Form 12)*, December 2022, rta.qld.gov.au/sites/default/files/2021-06/Form-12-Notice-to-leave.pdf, accessed 27 May 2024.

¹²⁹ Queensland Government, *Notice to Leave – Rooming Accommodation (Form R12)*, December 2022, rta.qld.gov.au/sites/default/files/2021-08/Form-R12-Notice-to-leave-rooming-accommodation.pdf, accessed 27 May 2024.

¹³⁰ Public Advocate’s Report, pp 39-40.

prescriptive. Section 74(2) of the RTRA Act provides that ‘The special terms may include, for example, terms about the provision of a food service or a personal care service to the resident’. Although it is mandatory for special terms to be included in these agreements, it is less clear what qualifies as a special term, or the level of detail required in the agreement.

5.1.1 Stakeholder views

Stakeholders raised concerns that rooming agreements afford weaker protections than other tenancy agreements as they put residents at risk of immediate eviction. Given the complex support needs and behaviours of many residents, this ease of eviction can be a problem: residents are at risk of losing their bond and ‘may be forced to stay in improvised dwellings or to sleep rough’.¹³¹ A number of residents related adverse experiences with tenancy documents, providing examples of being pressured to sign documents, or being asked to sign documents they do not understand.¹³²

The QAI submitted that residents should be provided with access to independent advocacy services and legal advice before signing rooming and service agreements. To support this, the QAI suggested there be increased investment in specialised community legal services for supported accommodation residents.¹³³

The department acknowledged it had heard of residents being scared to raise concerns about supported accommodation for fear of eviction.¹³⁴

The Residential Tenancies Authority (RTA) advised that in the case of evictions it is not immediately alerted. The RTA would only become involved if there were a dispute, or if it received an enquiry from a support service such as the Queensland Statewide Tenant Advice and Referral Service (QSTARS).¹³⁵ In a case where a resident receives a Notice to Leave without notice; therefore, any conciliatory processes would occur after the event.

Committee comment

The committee notes the Queensland Government’s ongoing commitment to reform of the *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act), as evidenced in the recent Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Bill 2024, which was passed on 23 May 2024.

The committee observes that the RTRA Act makes it clear that ‘special terms’ must be included in a residential tenancy agreement. It is less clear, however, what *must* be included within these special terms. In our view, this could be usefully clarified in the Residential Tenancies and Rooming Accommodation Regulation 2009, and such changes would help make these agreements more suitable for those living in residential services. The committee also considers amendments could be made to the general tenancy agreement and rooming accommodation agreement forms (Form18a and Form R18) to ensure compliance with what is included, and the level of detail required. If an example were included in the Regulation and on these forms, this could also help.

The committee acknowledges the views of stakeholders that called for residents to have access to independent advocacy services and legal advice when signing rooming and service agreements.

We agree that providing support to vulnerable residents, to make informed decisions with regard to their tenancy or rooming agreement, would be of great benefit.

¹³¹ Public Advocate’s Report, p 40.

¹³² Submissions 12, 91, 149, 189.

¹³³ Submission 128, p 18.

¹³⁴ DHLGPPW, public briefing transcript, Brisbane, 27 November 2023.

¹³⁵ RTA, public hearing transcript, Brisbane, 13 December 2023, p 20.

5.2 Transparency of tenancy fees and charges

The Public Trustee of Queensland (Public Trustee) is appointed as the financial administrator or attorney to adults with impaired decision-making capacity according to Queensland law.¹³⁶ During the Public Trustee identified two issues relating to the transparency of tenancy fees and charges.

5.2.1 Visibility of NDIS Plans

Currently, the NDIA is not recognising the authority of the Public Trustee as a decision-maker for NDIS participants and is not sharing plan details. This means, in some cases, Public Trustee officers do not have visibility of the fees and charges their customers are paying, and that they are authorising. A resident of a level 3 residential service may be paying for care and supports as part of a rooming accommodation agreement. If Public Trustee officers are unable to view the NDIS plan, they are unable to determine if similar care and supports are being funded by the NDIS: 'There could be double dipping; we do not know'.¹³⁷ The Public Advocate clarifies:

This means that the accommodation service provider and the NDIS service provider can be paid twice for the provision of the same service – once by the NDIS as a funded disability support for the participant and again by the resident as part of their accommodation and services payment.¹³⁸

The Public Advocate advised its decision-making powers have been denied by the NDIA. The NDIA asserts that such information sharing is prohibited by section 67G of the *National Disability Insurance Scheme Act 2013* (NDIS Act).¹³⁹ In written correspondence, the NDIA advised the Public Trustee that it 'cannot in the current circumstances be compelled to provide NDIS documents or information to the Public Trustee', and that 'the NDIS Act prohibits the unauthorised use or disclosure of protected Agency information'.¹⁴⁰

The Public Trustee confirmed it had consulted with the Department of Justice and Attorney-General, and lodged submissions to the Capability and Culture segment of the NDIA Inquiry. The NDIA has acknowledged the need for legislative changes that would empower the Public Trustee to perform its duties, but 'There is currently no solution'.¹⁴¹

5.3 Lack of transparency in tenancy/rooming agreements

The Public Trustee noted there are often inconsistencies between what is charged in tenancy/rooming agreements, and what is really provided. Residents might be charged for level 3 supported accommodation while not receiving any of the personal care services provided for in an agreement. The Public Trustee also noted a lack of uniformity in how costs are broken down in rooming agreements. In many cases, consequently, it is unclear what proportion of the agreement is being paid towards rent, meals, or services.¹⁴²

The balance between costs is often incommensurate: many agreements do not offer a plausible itemisation of expenses. For example, the Public Trustee attested to viewing agreements where a resident is being charged \$800 a fortnight for rent and only \$100 for food. The Public Trustee suggested regulation could be helpful to ensure greater transparency for the costs of rent, food, and

¹³⁶ The Public Trustee, public hearing transcript, Brisbane, 13 December 2023, p 8.

¹³⁷ Public Trustee, public hearing transcript, Brisbane, 13 December 2023, p 9.

¹³⁸ Public Advocate's Report, p 33.

¹³⁹ See NDIS Act, s 67G.

¹⁴⁰ Public Trustee, correspondence, 19 January 2024, attachment 2, p 1, and attachment 3, p 1.

¹⁴¹ Public Trustee, correspondence, 19 January 2024, attachment 1, p 3.

¹⁴² Public Trustee, public hearing transcript, Brisbane, 13 December 2023, pp 8-9.

services. Further, greater visibility is needed relating to services being funded by other providers, for example NDIS and aged care.¹⁴³ During the public hearing the Public Trustee stated:

I think Dr Chesterman's report speaks to regulating the fees and charges. That would certainly make our decision-making process a lot simpler... I think more regulation around those costs and how they are charged and visibility about what the care and support services are is needed.¹⁴⁴

In the Public Advocate's Report, stakeholders echoed the sentiment that there is limited transparency around fees and charges in tenancy/rooming agreements, and that this makes it difficult to establish whether residents are being charged appropriately, or whether they are receiving the services they are paying for.¹⁴⁵

The Supported Accommodation Providers Association (SAPA) acknowledged there is room for improvement regarding the itemisation of fees and costs, stating that it welcomes further regulation in this area.¹⁴⁶ SAPA also clarified its position on fees and charges being charged to residents who have alternative funding, such as NDIS. Providers, SAPA advised, tend not to consider certain charges from an individual level, but from a whole-of-facility level. Residential service providers often have staff on site 24/7, at a cost of \$390,000 per year.¹⁴⁷

SAPA noted that the Public Trustee will typically request payments for carer supports be removed from a rooming agreement if an individual has carer supports included in their NDIS plan. Removing the item from the rooming agreement stops a resident from being charged twice for the same service. In SAPA's view, this is not tenable. SAPA noted that NDIS funded staff are not always present on site. As mentioned above, if carer supports are required when there are no NDIS funded staff available, the provider will still be required to deliver a carer service. SAPA also argued that, if some residents are not paying for these services because they have NDIS care supports, a residential service is not likely to be able to afford to have 24-hour support services on site. SAPA stated 'the industry's viability is in question'.¹⁴⁸

A further complication identified by the Public Advocate is that many level 3 residential service providers are also NDIS providers. A management team may, for example, create a separate company to provide NDIS services that are being run by the same team.¹⁴⁹ If this were the case, it is conceivable that the same staff would provide the NDIS and the 24/7 personal care to a resident. In this scenario, if a resident received NDIS funded carer supports and was charged a carer fee under the tenancy/rooming agreement, they would effectively have paid the same team twice.

Committee comment

The committee recognises the need for 24-hour care, 7 days a week. It is not convinced, however, that residents with externally funded carer supports should meet the same financial obligation as those who receive on-site carer services. A middle ground needs to be found to reduce the risk of overpayment or duplication. The committee acknowledges due consideration must also be given to the financial sustainability of the industry, and the burden this might have on providers.

¹⁴³ Public Trustee, public hearing transcript, Brisbane, 13 December 2023, pp 9-10.

¹⁴⁴ Public Trustee, public hearing transcript, Brisbane, 13 December 2023, p 10.

¹⁴⁵ Public Advocate's Report, p 30.

¹⁴⁶ SAPA, public hearing transcript, Brisbane, 13 December 2023, p 27.

¹⁴⁷ SAPA, public hearing transcript, Brisbane, 13 December 2023, p 27.

¹⁴⁸ SAPA, public hearing transcript, Brisbane, 13 December 2023, p 27.

¹⁴⁹ Public Advocate's Report, p 33.

5.3.1 Accommodation as a proportion of income

The Public Trustee advised the cost of residential services can leave residents with little or no available disposable income. A household is considered to experience housing stress if rent or mortgage payments are greater than 30 per cent of the household's disposable income.¹⁵⁰ In the Public Advocate's Report, stakeholders reported that many residents of level 3 residential services pay between 70 and 85 per cent of their pensions (often the Disability Support Pension), as well as the entirety of any Rent Assistance payments they receive.¹⁵¹

The committee confirmed these costs during their site visits, with operators advising the committee of accommodation costing between 70 and 85 per cent of residents' pension or other allowance for the provision of a level 3 accredited residential service.¹⁵²

I'm paying \$930 a fortnight, which is roughly about 85% of my income, and does not leave me very much at the end of the day to pay for bills or anything else I have outstanding.

Submission 111, resident (anonymous)

I don't really feel like these costs are fair at the end of the day, but what can you do. You've got to accept the way things are and focus on making the best of it – of making things as pleasant as they can be with what you're given. I don't like to complain or argue.

Submission 14, resident (anonymous).

One resident's support team offered the following calculations based on 60 residents in a Brisbane accommodation service in their submission:

with each resident paying 85% of their disability support pension based on 60 residents the average board and lodging is \$860 fortnight.

Each resident \$860 FN = \$51,600 per FN \$103,200.00 per month = \$1,238,400.00 annual funds from participants give or take some for vacant rooms.¹⁵³

As the representative for highly vulnerable people, the Public Trustee raised concern that customers may have insufficient funds to improve their lives: some may not even have enough disposable income to afford clothing, toiletries, and medications. Consequently, people sometimes voluntarily exit residential services, so they can afford personal goods such as tobacco, or to have greater control over their personal finances.¹⁵⁴

The Public Trustee advised that when negotiating payment for public housing the limit payable is 25 per cent of the resident's pension and any rent assistance they are entitled to. This is the same for Specialist Disability Accommodation (SDA) funded through the NDIA.¹⁵⁵ As advised by the department,

¹⁵⁰ Public Advocate's Report, p 29; Australian Government, AIHW, *Housing affordability: Low income households in housing stress*, housingdata.gov.au/visualisation/housing-affordability/low-income-households-in-housing-stress.

¹⁵¹ Public Advocate's Report, p 29.

¹⁵² Submission 138, p 42; See also, submissions 16 and 133.

¹⁵³ Submission 17.

¹⁵⁴ Public Trustee, public hearing transcript, Brisbane, 13 December 2023, p 8.

¹⁵⁵ Public Trustee, public hearing transcript, Brisbane, 13 December 2023, pp 8-9. for the policies see: Queensland Government, *How your rent is calculated*, 2023, qld.gov.au/housing/public-community-housing/public-housing-tenants/your-rent/how-rent-is-calculated; Australian Government, NDIS, *How do you make an agreement with a specialist disability accommodation provider?*, 2022, ourguidelines.ndis.gov.au/supports-you-can-access-menu/home-and-living-supports/specialist-disability-accommodation/how-do-you-make-agreement-specialist-disability-accommodation-provider. The housing policy states rent will be assessed at 25 per cent of a household's assessable income. The NDIA states the maximum rent contribution is 25 per cent of the disability pension.

such limits do not apply to residential services as neither the RTRA Act nor the RSA Act restrict how much a residential service provider may charge.¹⁵⁶

5.3.2 Security of tenure

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) RC Report noted that people who live in boarding/rooming/shared accommodation arrangements generally have 'very limited security of tenure'.¹⁵⁷ The RC Report noted that a large proportion of people who live in supported accommodation are living with an intellectual disability or cognitive impairment; as such, they may not have sufficient support to understand or assert their rights.¹⁵⁸ People with disability advised the Disability Royal Commission that they face serious difficulties when attempting to find suitable accommodation.¹⁵⁹ The RC Report declared:

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.¹⁶⁰

The weaker protection afforded in boarding/rooming legislation, said the RC Report, 'denies protection to a class of occupants whose rights are limited and precarious... the problem is compounded by the uncertainty around the service agreements created by property owners with residents'.¹⁶¹

In New South Wales and Victoria, the RC Report found, the legislation at least provides that disputes can be determined by an independent tribunal.¹⁶² In Queensland, issuing a Notice to Leave without notice precludes any realistic opportunity to appeal or engage an independent conciliator prior to eviction. During the public hearing, the RTA advised it is not immediately notified of evictions, and that its office would only get involved following a dispute being escalated to their office. At this point the RTA would 'support both sides and provide information about the legislation and the rights and responsibilities'.¹⁶³

To support people with disability, the RC Report calls for greater protections in residential services:

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.¹⁶⁴

Committee comment

In the committee's view, the current regulatory environment of residential services is failing vulnerable Queenslanders. The legislative complexities of the current 'housing model' entangle many residents in a bureaucracy they are not equipped to navigate, nor, in some cases, understand. It also allows residents to pay a majority of their pension and any Rent Assistance payments for

¹⁵⁶ DHLGPPW, public briefing transcript, Brisbane, 27 November 2023, p 3.

¹⁵⁷ RC Report, Volume 7, p 564.

¹⁵⁸ RC Report, Volume 7, p 565.

¹⁵⁹ RC Report, Volume 7, p 565.

¹⁶⁰ RC Report, Volume 7, p 565.

¹⁶¹ RC Report, Volume 7, p 566.

¹⁶² RC Report, Volume 7, p 572.

¹⁶³ RTA, public hearing transcript, Brisbane, 13 December 2023, p 20.

¹⁶⁴ RC Report, Volume 7, p 572.

accommodation and limited supports. If they do not have an NDIS package, they might have no spending money, and no coordinated supports. Considering the psychosocial, cognitive, or intellectual disabilities many residents experience, we consider it important that elements of a 'social care' scaffolding be introduced. Oversight, greater protections, and a person-centred framework seem necessary to ensure residential services are consistent with modern values.

Another factor that can impact housing security is the adoption of 'zero tolerance' policies in relation to drug and alcohol use in level 3 residential services. The Public Advocate's Report note stakeholder concern that residential service providers are adopting strict policies that can lead to the immediate eviction of residents using alcohol or drugs. The Public Advocate noted that, while targeted toward the safety of other residents, such an approach is not consistent with Australia's National Drug Strategy 2017-2026, which promotes a harm minimisation approach that recognises the need for a range of approaches, including the progressive reduction of substance abuse.¹⁶⁵

Committee comment

The committee recognises a balance must be found between supporting residents with substance abuse issues and protecting the wider community living at a residential service. We encourage the Queensland Government to consider the appropriateness and legality of such policies as part of any reforms to the *Residential Tenancies and Rooming Accommodation Act 2008*, and to consider how tenancy and rooming agreements might better support these individuals.

As part of any reforms, we suggest there would be value in reflecting upon how the itemised costs associated with services provided in a residential service facility are appropriately incorporated into the *Residential Tenancies and Rooming Accommodation Act 2008*. Given the concerns raised about the transparency of these agreements, and the lack of guidelines about what detail needs to be included, a prescribed service agreement could be a preferable option.

Recommendation 6

The committee recommends the Department of Housing, Local Government, Planning and Public Works consider how it can better support vulnerable tenants living in residential services, including:

- tenants issued with a Notice to Leave without sufficient notice, following an alleged breach
- modification of zero tolerance requisites in tenancy agreements with vulnerable residents.

Recommendation 7

The committee recommends the Minister for Housing, Local Government, Planning and Public Works consider an amendment to the *Residential Tenancies and Rooming Accommodation Act 2008* to incorporate a prescribed service agreement for residents in residential services.

¹⁶⁵ Public Advocate's Report, p 46.

6 Pathways in and out of residential services

There is no regulation governing the grouping of vulnerable cohorts within a residential service, nor are there measures to determine the appropriateness of individuals to cohabitate.

The DHLGPPW indicated several entry pathways it has observed:

- Queensland Health
- Queensland Corrective Services (QCS)
- referrals from the department's own Housing Service Centres
- funded housing and homelessness providers and other government departments.¹⁶⁶

According to stakeholders, new residents are discharged from acute mental health units and hospitals, have been released from prison, or have no other housing options.¹⁶⁷ The Public Advocate noted that people finding their way into residential services may be, or are already, eligible for funding through systems such as the NDIS or Aged Care system.¹⁶⁸

The department advised that service providers can 'can self-select who they offer their assistance to'.¹⁶⁹ However, Nathan Johnson, Vice Chair of SAPA, informed the committee that service providers had little choice in regard to suitable placement.

All of my colleagues here today can give you story after story of clients being abandoned by the system, dumped at our door with no supports, discharged in the middle of the night with no transport. There is rarely any follow-up to any new resident to our industry. Providers are expected to pick up the pieces and work through complex needs.¹⁷⁰

6.1 Queensland Health

Queensland Health affirmed its commitment to discharging people from hospitals into 'safe, secure and affordable accommodation wherever possible', but noted this can be challenging in the current housing climate.¹⁷¹ It is noted there is a lack of accommodation options in the housing market that are accessible, suitable, and affordable. In this environment, supported accommodation has an important role for people who might otherwise be sleeping rough, hospitalised, or incarcerated.¹⁷²

Specific processes vary between Queensland's 16 Hospital and Health Services (HHSs), so there is not a uniform procedure for sourcing accommodation. If a patient does not have a place of residence where they can be discharged the HHS may offer to engage allied health clinicians who can support the patient throughout the process. This may include assessing the patient's accommodation needs, helping to find a place of residence, assessing the patient's current medical and mental state, considering the patient's guardianship/power of attorney arrangements, and identifying any risk factors in the patient's interpersonal relationships.¹⁷³

¹⁶⁶ DHLGPPW, correspondence dated 16 November 2023, attachment F, p 8.

¹⁶⁷ Public Advocate's Report, p 19.

¹⁶⁸ Public Advocate's Report, p 20.

¹⁶⁹ DHLGPPW, public briefing transcript, Brisbane, 27 November 2023, p 3.

¹⁷⁰ Public hearing transcript, Brisbane, 13 December 2023, p 23.

¹⁷¹ Queensland Health, correspondence, 18 December 2023, attachment 1, p 2.

¹⁷² Queensland Health, correspondence, 18 December 2023, attachment 1, p 2.

¹⁷³ Queensland Health, correspondence, 18 December 2023, attachment 1, p 2.

The HHSs have several options they might pursue to identify accommodation. They may:

- consider if NDIS support is an appropriate option, and if so assist with the application process
- make referrals to local NGOs and housing providers, particularly for patients who face homelessness
- help patients to navigate their own social and support networks to see if there are any housing opportunities.¹⁷⁴

When support is adequately managed by a relevant agency the HHS may hand over the coordination of supports. Where the support is inadequate an HHS will support patients through to discharge and beyond, if necessary.¹⁷⁵

Queensland Health advised that, as part of a typical discharge, it will consider levels 1, 2, and 3 residential services. Clinicians will conduct assessments to determine an individual's suitability and healthcare needs and will make recommendations. Various risk assessments are conducted, relating to safety planning, mobility and environment, and co-tenancy arrangements. For mental health clients who have forensic orders, the treating team conducts a risk assessment to consider the location of the facility, and the appropriateness of the other residents.¹⁷⁶

Queensland Health advised monitoring occurs after discharge. Patients may be connected with community-based services and receive GP follow-up and monitoring where appropriate. Referrals are decided by need and the patient's willingness to accept them. Monitoring by Queensland Health may occur when a person has access to supports, such as the NDIS.¹⁷⁷

Queensland Health advised that community mental health teams provide ongoing treatment and care post discharge, but not monitoring. The intensity and duration of treatment will vary: short term care may be provided to link patients with primary care supports, and longer term supports will be provided if necessary to meet the patient's clinical needs. Those who receive mental health services are provided regular case manager contact.¹⁷⁸

Patients with intellectual impairments are linked with services. Those whose mental illness is comorbid with an intellectual impairment, or other psychosocial conditions, are provided further treatment through 'tertiary psychiatric services'.¹⁷⁹

Ongoing clinical assessment is conducted by community teams that review the suitability of a patient's accommodation after discharge; however, 'responsibility for practical and environmental safety requirements and interpersonal safety between co-residents is the responsibility of individual tenants and the accommodation providers'.¹⁸⁰

Queensland Health acknowledged the standard of care found in supported accommodation can be low, and this can lead to negative health impacts. Queensland Health noted there are substantial opportunities to increase the wellbeing of residents in supported accommodation. Nonetheless, it stressed the importance of supported accommodation, and urged the Inquiry to consider the potentially deleterious effects that reform could have if it made the industry financially non-viable:

¹⁷⁴ Queensland Health, correspondence, 18 December 2023, attachment 1, p 2.

¹⁷⁵ Queensland Health, correspondence, 18 December 2023, attachment 1, p 3.

¹⁷⁶ Queensland Health, correspondence, 18 December 2023, attachment 1, p 3.

¹⁷⁷ Queensland Health, correspondence, 18 December 2023, attachment 1, p 3.

¹⁷⁸ Queensland Health, correspondence, 18 December 2023, attachment 1, p 4.

¹⁷⁹ Queensland Health, correspondence, 18 December 2023, attachment 1, p 4.

¹⁸⁰ Queensland Health, correspondence, 18 December 2023, attachment 1, p 4.

The lack of suitable, accessible and affordable accommodation options can be a significant issue for people with disability and often results in unnecessary and extended stays in hospital. Supported accommodation plays an important role as an available housing option for people with disability, who may otherwise be unnecessarily hospitalised or sleeping rough. It is important that the Inquiry's work maintains or improves the availability of affordable accommodation for vulnerable service users. Excessive regulation, if not carefully considered, could result in the collapse of the sector and lead to mass hospitalisations, homelessness and incarceration.¹⁸¹

SAPA suggested there is an overreliance on residential services, which have become 'a dumping ground for hospitals and NGOs for individuals with complex mental health issues and insufficient supports'.¹⁸² During the public hearing, SAPA elaborated upon this point:

All of my colleagues here today can give you story after story of clients being abandoned by the system, dumped at our door with no supports, discharged in the middle of the night with no transport. There is rarely any follow-up to any new resident to our industry. Providers are expected to pick up the pieces and work through complex needs.¹⁸³

Similarly, QCOSS noted that member feedback indicated it is common for people to enter residential services even if their support needs aren't expected to be met. People are sent to residential services to avoid homelessness when exiting institutions, even when the accommodation does not meet the resident's needs.¹⁸⁴

6.1.1 Access to Health Services in a residential service

The Public Advocate heard anecdotally that a growing proportion of residents in supported accommodation might have mental health needs that are not being sufficiently met.¹⁸⁵

The NDIS Commission Report identified several challenges people with disability face when accessing health services:

- there can be disagreements and assumptions about what is an NDIS support and what is a healthcare support
- lack of access to practitioners with expertise treating people with intellectual disabilities or other communication needs
- people are not always provided support to attend healthcare and other appointments
- choice and control for decision-making can be compromised in group settings.¹⁸⁶

The Disability Royal Commission wrote that, where a person is on the NDIS, the NDIA should be the 'lead agency' to coordinate transition from institutional settings (e.g., health services, correctional facilities, and mental health services). Where a person does not receive NDIS funding, the transition should be coordinated by the agency responsible for the service being exited.¹⁸⁷

Stakeholders raised concern that residents of supported accommodation who do not receive the NDIS typically do not have access to sufficient and suitable supports.¹⁸⁸ This is supported by the Coroners Court of Queensland, 2019 *Deaths in Care (Disability)* report (Coroners Report), that despite the

¹⁸¹ Queensland Health, correspondence, 18 December 2023, attachment 1, p 4.

¹⁸² Submission 1, n.p.

¹⁸³ SAPA, public hearing transcript, Brisbane, 13 December 2023, p 23.

¹⁸⁴ Submission 137, n.p.

¹⁸⁵ The Public Advocate, public hearing transcript, Brisbane, p 2.

¹⁸⁶ NDIS Commission Report, pp 89-91.

¹⁸⁷ RC Report, Volume 7, p 591.

¹⁸⁸ Public Advocate's Report, p 41.

complex health conditions and comorbidities experienced by deceased persons, there was ‘limited indication of coordinated care’.¹⁸⁹ The Coroners Report said:

The majority of the deceased had complex health and psychiatric conditions, and it was identified that persons with high care needs should not be in certain types of supported accommodation, as their care needs exceeded that which could reasonably be expected to be provided in these types of settings (i.e. level 3 residential services).¹⁹⁰

The Coroners Report also considered the provision of level 3 personal care services in supported accommodation. The provision of these supports, it concluded, failed to meet healthcare needs in the following ways:

- staff are often not adequately trained to dispense medication¹⁹¹
- current standards are broad and allow substantially different interpretations for medication management¹⁹²
- standards for residential service providers do not suitably clarify who is responsible for determining healthcare needs¹⁹³
- standards for residential service providers prioritise maintenance, not health gains.¹⁹⁴

As noted above, there is often disagreement or uncertainty about who is responsible for the healthcare of residents. According to the Coroners Report, there seems to be a lack of understanding among clinicians and hospital staff about the role and responsibilities of level 3 providers: ‘This has significant implications for discharge planning, and in ascertaining a patient’s longer-term care requirements’.¹⁹⁵

SAPA advised:

Early intervention, particularly when a resident’s mental health is declining, is something that is, frankly, non-existent within the space. Within our facilities we have a number of residents on mental health plans with community mental health run by Queensland Health. They have a case manager in that respect. They will come out to see them and make their regular appointments and so on. When we call them up and say, ‘Such and such has slid into psychosis. We can see their behaviours changing and so on’ they will say, ‘I’m too busy. I can’t come out; maybe next week.’ We can usually see it days ahead of time.¹⁹⁶

SAPA continued that this will result in providers eventually being told to call an ambulance, and sometimes the police will be required. SAPA stated:

They finally get into the emergency ward. They then ask that resident at the emergency ward, ‘Why are you here?’ and they [say] ‘I don’t know.’ They are taken home; they are not assessed, not anything. They come back that night and tear the place apart. We call the ambulance the next day and the cycle repeats. It just goes on and on because the emergency services will not admit them into the hospital because of their psychosis. The mental health case workers in the community are overstretched and cannot help

¹⁸⁹ Coroners Court of Queensland, *Deaths in care (Disability)* (Coroners Report), 2019, p 18, coronerscourt.qld.gov.au/__data/assets/pdf_file/0011/723638/ccq-rpt-deaths-in-care-disability-expert-review-panel-report.pdf; see also Public Advocate’s Report, p 41.

¹⁹⁰ Coroners Report, p 18.

¹⁹¹ Coroners Report, p 23.

¹⁹² Coroners Report, p 24.

¹⁹³ Coroners Report, p 24.

¹⁹⁴ Coroners Report, p 26.

¹⁹⁵ Coroners Report, p 37.

¹⁹⁶ SAPA, public hearing, 13 December 2023, p 29.

them ... They are on the front line trying to deal with someone who is delusional and in psychosis. They are unable to handle them. Then the resident gets dumped back at our facility time and time again.¹⁹⁷

Staff working at level 3 residential services are accredited to provide healthcare and medication management; however, there is no requirement that these staff have a medical background. Their accreditation is regulated through the *Residential Services (Accreditation) Act 2002*.¹⁹⁸ According to the Coroners Report's expert panel, there is no indication that medical input was sought when these level 3 standards were devised, despite the fact that the provision of personal and healthcare supports pertains to the medical or psychiatric care of residents.¹⁹⁹ The panel concluded:

The standards were considered by the Panel to be so vague and open to interpretation that anyone *could* or *could not* meet them. This is problematic given the complex health conditions of some of the deceased, which required a high level of care that exceeded that able to be provided by the service.²⁰⁰

In response to the uncertainty around when people are discharged from Health settings, the Disability Royal Commission found that 'Where a person is not an NDIS participant, responsibility for coordinating services should sit with the agency responsible for the service they are leaving'.²⁰¹ The RC Report's recommendation 7.39 relates to ensuring people with disability have access to appropriate supports when exiting, and after, they are discharged from a service or institutional setting:

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final report, Volume 7, Inclusive education, employment and housing, September 2023, p 592.

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

¹⁹⁷ SAPA, public hearing, 13 December 2023, p 29.

¹⁹⁸ Coroners Report, p 37.

¹⁹⁹ Coroners Report, p 27.

²⁰⁰ Coroners Report, p 27.

²⁰¹ RC Report, Volume 7, p 591.

- coordinating the implementation of the plan until the person with disability has successfully transitioned to safe and appropriate housing.

6.2 Queensland Corrective Services

Correspondence from the Hon Nikki Boyd MP, Minister for Fire and Disaster Recovery and Minister for Corrective Services affirmed the need for safe, secure, and affordable accommodation to aid community reintegration following release from correctional facilities. Minister Boyd also noted ‘an increased shortage of suitable post release housing options, reflecting the broader housing crisis across Queensland’.²⁰²

Queensland Corrective Services (QCS) provides funding to NGOs across Queensland to work with prisoners prior to their release. This support is intended to assist with safe community reintegration, and includes help finding suitable housing. This might be community housing, crisis accommodation, supported accommodation, boarding houses, private rentals, and rehabilitation services.²⁰³

The Queensland Government’s website states that QCS and Re-entry Services staff can help people to apply for housing assistance while they are incarcerated.²⁰⁴ Re-Entry Advisors, based in South East Queensland, work within Offender Rehabilitation and Management Services. Community Corrections officers ‘identify and refer eligible offenders’ to Re-Entry Services, who ‘engage in service provision with offenders regarding their assessed re-entry needs’.²⁰⁵ The website also recommends individuals who have been released from a correctional centre should contact their nearest Housing Service Centre.²⁰⁶ These are ‘Funded re-entry service providers [that] assist prisoners to apply for social housing’.²⁰⁷ Housing Service Centres are publicly available department services that assist people to find housing. There are currently 43 of these centres across Queensland.²⁰⁸

For women exiting correctional settings the DHLGPPW funds the Next Step Home – Women on Parole program, which assists women at risk of homelessness to secure housing, and connects them with support services to help with community reintegration.²⁰⁹

To support NDIS participants in custody, QCS liaises with the NDIA’s Justice Liaison Team. This includes providing updates on the individual’s location, court and parole dates, and discharge dates.²¹⁰

In October 2019, QCS commenced the Post Release Supported Accommodation Service (PRSA), an initiative to support male prisoners who are eligible for parole, but who have remained in custody because they do not have access to suitable accommodation.²¹¹ PRSA is a voluntary 12-week program

²⁰² Hon Nikki Boyd MP, Minister for Fire and Disaster Recovery and Minister for Corrective Services, correspondence, attachment, 2 January 2024, p 1.

²⁰³ Hon Nikki Boyd MP, correspondence, p 1.

²⁰⁴ Queensland Government, *Housing for people leaving a correctional centre*, 2022, qld.gov.au/housing/public-community-housing/eligibility-applying-for-housing/leaving-correctional-centre.

²⁰⁵ Hon Nikki Boyd MP, correspondence, p 2.

²⁰⁶ Queensland Government, *Housing for people leaving a correctional centre*, 2022.

²⁰⁷ Hon Nikki Boyd MP, correspondence, p 4.

²⁰⁸ Queensland Government, Open Data Portal, *Contact a Housing Service Centre*, last updated 3 January 2024, data.qld.gov.au/dataset/contact-a-housing-service-centre/resource/e29680e4-a5a1-4cdf-b24d-30b4f4dff307, accessed 28 February 2024.

²⁰⁹ Hon Nikki Boyd MP, correspondence, p 1.

²¹⁰ Hon Nikki Boyd MP, correspondence, pp 1-2.

²¹¹ Queensland Corrective Services, ‘Housing access to help prisoners reintegrate into community’, media release, 11 November 2019, corrections.qld.gov.au/housing-access-to-help-prisoners-reintegrate-into-community/.

that provides participants with a support worker to help them identify goals, connect with support services, and access 'supported sole occupancy housing'.²¹² Currently, the program is only operational in Toowoomba, Moreton Bay, Townsville, and Cairns, across 40 funded properties.²¹³

QCS appoints case managers to supervise and monitor offenders who are on parole, or have a post sentence order. These officers 'case manage individuals through the application of specialised assessment tools which identify criminogenic needs and changes in an offender's risk profile'.²¹⁴ If parole or supervision orders stipulate that an individual's residence must be approved, case managers undertake an Accommodation Review to consider the suitability of a residence, and to identify any risk factors, including 'specific order conditions related to their offending, domestic and family violence, proximity to victims, and intelligence information'.²¹⁵ For those on post sentence orders, 'factors such as assessed current risk, risk mitigation strategies, order conditions set by the court and human rights are taken into account'.²¹⁶

With regard to post-release monitoring, the degree of engagement is variable and determined by the risks and needs identified by QCS. Supervision might include 'front-end assessments', ongoing case management, support with reintegration, curfews, substance testing, program delivery, and electronic monitoring.²¹⁷ Individuals with 'post sentence supervision orders have intensive supervision and monitoring regimes in place'.²¹⁸

People leaving a correctional centre can apply for housing with the support of QCS and Re-entry Services staff.²¹⁹ Re-entry Advisors work at the Offender Rehabilitation and Management Services office in South East Queensland. Prisoners can be self-referred, or referred by corrections staff. Re-Entry Services engage service providers for offenders to meet their re-entry needs, including housing.²²⁰

For those who have already been released, Queensland Government advises to contact their nearest Housing Service Centre.²²¹

6.2.1 Barriers to re-entry and complex support needs

In recent years there has emerged a body of research that considers the systemic barriers and complexities encountered by people exiting correctional centres. Access to appropriate housing has been identified as a fundamental challenge. In a report commissioned for the Disability Royal Commission, *People with disability transitioning from prison and their pathways into homelessness* (THRI Report), the Translational Health Research Institute found that a substantial proportion of individuals in correctional facilities experience disability. It concludes that this high rate is likely 'the effect of complex interactions between systemic, structural and individual factors'.²²²

²¹² Hon Nikki Boyd MP, correspondence, p 2.

²¹³ Hon Nikki Boyd MP, correspondence, p 2.

²¹⁴ Hon Nikki Boyd MP, correspondence, p 3.

²¹⁵ Hon Nikki Boyd MP, correspondence, p 3.

²¹⁶ Hon Nikki Boyd MP, correspondence, p 3.

²¹⁷ Hon Nikki Boyd MP, correspondence, p 4.

²¹⁸ Hon Nikki Boyd MP, correspondence, p 4.

²¹⁹ Queensland Government, *Housing for people leaving a correctional centre*, 2022.

²²⁰ Hon Nikki Boyd MP, correspondence, p 3.

²²¹ Queensland Government, *Housing for people leaving a correctional centre*, 2022.

²²² Translational Health Research Institute, *People with disability transitioning from prison and their pathways into homelessness* (THRI Report), research report for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, 2023, p 1.

The Australian Housing and Urban Research Institute's (AHURI) report *Exiting prison with complex support needs: the role of housing assistance* (AHURI Report) found that:

- housing plays a vital role to encourage desistance, the delivery of supports to people with complex needs, and reintegration
- 'there is a dearth of housing options for ex-prisoners' in Australia
- in practice, pre-release planning and post-release services are rationed among a 'very small number of people'
- ex-prisoners often experience a 'fraught pathway' through temporary accommodation in caravan parks, motels, Specialist Homelessness Services (SHS) facilities, and boarding accommodation
- temporary accommodation can be a useful 'stopgap', but many find it stressful
- shared spaces and congregate services pose a risk to other residents
- the barriers to securing private rental accommodation, particularly for people with complex support needs, are often insurmountable.²²³

The professional staff interviewed for the AHURI Report broadly agreed 'that the large majority of people leaving prison have complex support needs' and histories of trauma, neglect, abuse, and institutionalisation.²²⁴ These factors make reintegration and desistance from re-offending challenging.²²⁵

The THRI Report consulted with stakeholders in Tasmania, Victoria, and New South Wales, and so did not provide specific accounts from Queensland. The report instead highlights a national correctional system that is understaffed and reactive. As one Tasmanian corrections officer stated, the prison population has 'easily doubled and the amount of reintegration officers has not grown with that ...there's just not enough to go around, so there's not any planning'.²²⁶ Similarly, a reintegration worker from New South Wales said, 'It's really hit and miss ... Within each jail there are massive differences between workers as well ... It's pot luck, almost. Regarding housing, there's not much that goes on pre-release, on the corrective services side. They definitely don't see that as their role'.²²⁷

6.2.2 Corrections, disability, health, and homelessness

The Australian Institute of Health and Welfare's (AIHW) data from 2022 showed that 39 per cent (almost 2 in 5) prison entrants reported having a disability or long-term health condition that affected their ability to participate in everyday activities, education, or employment.²²⁸

Prison entrants were found to be about 100 times more likely than members of the community to be homeless, with 43 per cent of entrants reporting being homeless in the 4 weeks prior to entry (including short-term and emergency accommodation).²²⁹ In 2021-22, 2.4 per cent of all the adult

disability.royalcommission.gov.au/publications/people-disability-transitioning-prison-and-their-pathways-homelessness.

²²³ AHURI Report, pp 34-5.

²²⁴ AHURI Report, p 36.

²²⁵ AHURI Report, p 36.

²²⁶ AHURI Report, p 36.

²²⁷ AHURI Report, p 36.

²²⁸ Australian Government, Australian Institute of Health and Welfare, *The health of people in Australia's prisons 2022* (AIHW Prison Report), 2023, p vii, aihw.gov.au/reports/prisoners/the-health-of-people-in-australias-prisons-2022/contents/about.

²²⁹ AIHW Prison Report, p 80.

clients staying in specialist homelessness services had come from either a custodial setting, a youth justice detention centre, or immigration detention centre.²³⁰ Nearly half (45 per cent) of those discharged from prison expected to be homeless (including entering short-term and emergency accommodation) upon their release. The majority were male (54 per cent) and aged 20-44 (59 per cent). These individuals, compared with other adults accessing homelessness services, were more likely to need drug and alcohol counselling (26 per cent compared to 11 per cent of other clients).²³¹

The THRI Report found that current policies in corrective services treat housing and homelessness as ancillary factors, and exhibit 'a lack of explicit consideration of the needs of those with disability'.²³² Among the recommendations in the THRI Report were the following:

- nationally consistent policies and guidelines to support people with disability leaving correctional facilities
- improved reporting of outcomes to enable monitoring of progress against disability action plans
- a uniform national mechanism to identify people with disability in corrective services
- improved coordination and integration between sectors (corrective services, disability services, NDIS, housing, and health)
- increased availability of supported housing
- visibility of disability in homelessness research and policy.²³³

6.3 The Office of the Public Guardian and the Public Trustee of Queensland

The Office of the Public Guardian (OPG) and Public Trustee of Queensland (Public Trustee) also consider level 1, 2, and 3 residential services for clients when necessary.

6.3.1 Office of the Public Guardian

As well as having guardianship responsibilities to children and young people, the OPG promotes and protects 'the rights of adults with impaired decision-making capacity', including:

- decision-making for personal matters
- appointment under an enduring power of attorney where necessary
- appointment as a statutory health attorney as a last resort
- investigations into allegations an adult with impaired decision-making has been, or is being, neglected, abused, exploited, or does not have appropriate decision-making arrangements
- community visits and oversight responsibilities.²³⁴

During the public hearing, the OPG advised it supports approximately 150 residents living in residential services, with around 10 per cent of these being in level 3 supported accommodation.²³⁵ Guardians generally only support their clients residing in a level 3 residential service when there is no alternative accommodation options available, or if a client expresses a clear wish that they want to live there. In practice, the OPG explores this option when urgent accommodation is required, such as when an

²³⁰ AIHW Prison Report, p 80.

²³¹ AIHW Prison Report, p 80.

²³² THRI Report, p 2.

²³³ THRI Report, pp 67-69.

²³⁴ Office of the Public Guardian (OPG), public hearing transcript, Brisbane, 13 December 2023, p 13.

²³⁵ S Smith, Public Guardian and CEO, Office of the Public Guardian (OPG), public hearing transcript, Brisbane, 13 December 2023, p 16.

address is needed for a bail application, a person has been evicted from their current residence, or has otherwise become homeless.²³⁶

Despite considering level 3 residential services as a last resort, similar to Queensland Health, the OPG stressed that ‘while we remain in the midst of a housing crisis, level 3 residential services do play a role in providing an accommodation option’.²³⁷

One of the OPG’s functions is the Community Visitor Program, which provides a degree of monitoring and oversight of the office’s clients. Community visitors perform site visits to ‘visitable sites’ (refer to Chapter 9 for consideration of the Community Visitor Program).

6.3.2 The Public Trustee of Queensland

The Public Trustee ‘provides independent state trustee services dedicated to advancing and safeguarding the rights, interests and wishes of Queenslanders, particularly those in need of financial management services’.²³⁸ Whereas the OPG’s guardianship responsibilities are in relation to an individual’s health and personal matters, the Public Trustee’s remit is financial management.

The Public Trustee is appointed as the financial administrator for adults deemed to have impaired decision-making capacity under the *Guardianship and Administration Act 2000*, and as financial attorney under the *Powers of Attorney Act 1998*. The Public Trustee acts as financial administrator or attorney to approximately 10,000 adults who have a legal cognitive incapacity. The Public Trustee advised a portion of its customers reside in supported accommodation; however, it is unable to identify all these customers given they are often vulnerable, liable to move between facilities, and at risk of homelessness.²³⁹

The Public Trustee is responsible for signing tenancy/rooming agreements, which cover financial arrangements for levels 1, 2, and 3 residential services.

6.3.3 Barriers for the Office of the Public Guardian and the Public Trustee

The Public Advocate heard from stakeholders that clients whose accommodation is subject to OPG decision-making find it difficult to contact the OPG on weekends or after hours. Consequently, residents who wish to leave a residential service might miss out on alternative housing options when there is an urgent need.²⁴⁰

The OPG confirmed its staff does work within business hours, although if something comes up before the end of the day, ‘staff often stay back to manage crises’.²⁴¹

During the public hearing the OPG highlighted the challenges the current supported accommodation framework poses to its office, and to the sector in general, highlighting the diversity of people and needs that are characteristic in these facilities:

Are they transitioning from a correctional facility? Are they transitioning perhaps from a mental health facility? Looking at what those cohorts and their needs are may provide some answers into the models that would be fit for purpose for those people.

...

It is not a homogenous group so it is very difficult to say what model will fit. Everyone has very different complexities and needs. I am sure residents themselves will probably be able to inform you of what they

²³⁶ OPG, public hearing transcript, Brisbane, 13 December 2023, p 13.

²³⁷ OPG, public hearing transcript, Brisbane, 13 December 2023, p 13.

²³⁸ Submission 144, p 1.

²³⁹ Public Trustee, public hearing transcript, Brisbane, 13 December 2023, p 14.

²⁴⁰ Public Advocate’s Report, p 45.

²⁴¹ OPG, public hearing transcript, Brisbane, 13 December 2023, p 13.

think they need is not being provided at the moment. This group and their complexities cut across a multitude of different government services at both the Commonwealth and state level. It is very difficult to have one size fits all.²⁴²

The OPG also identified a lack of choice when engaging service providers for residents in level 3 residential services. A possible solution suggested was for provision in the RSA Act similar to section 28 of the *Disability Services Act 2006*, which requires ‘Services should be designed and implemented to ensure that no single service provider exercises control over all or most aspects of the life of a person with disability’ (see chapter 7 on choice and control with regard to service delivery).²⁴³

The committee heard that the advent of the NDIS has enabled some providers to lower their accreditation from level 3 to level 2 (or 1) by transferring the provision of certain services to an NDIS provider. The Public Trustee raised concerns this could affect the visibility of these facilities to the Community Visitors Program, as they may cease to be a ‘visitable site’.²⁴⁴

The Public Trustee identified that it faces challenges in the financial administration of participants who receive NDIS payments because, due to NDIA privacy policies, officers are unable to view NDIS plans without the participant’s consent, which means the Public Trustee does not have a complete view of an individual’s finances.

The Public Advocate reported that the Public Trustee will only sign rooming agreements, not tenancy agreements, to protect residents from being liable for unpaid rent or damage caused by other residents. The Public Advocate’s Report noted that this protection may have the unintended consequence of limiting the options of residents hoping to exit a level 3 residential service in favour of alternative housing options such as shared accommodation.²⁴⁵

6.4 Pathways out of residential services

The Public Advocate’s Report said that most stakeholders believed level 3 residential services would ideally only be used for temporary accommodation—a place where residents might access housing support while waiting to secure alternative, and more appropriate, housing. Despite this, many people have lived in these services for a long time, and their preference is to remain living in supported accommodation. Also, there are likely those who would like to exit a residential service; however, there are challenges to exiting, and residents are at risk of becoming ‘stuck’.²⁴⁶

The Public Advocate suggested that having transitional housing and support provided by for-profit organisations is itself a challenge: ‘given the costs and efforts required to bring new residents into the service, there will be limited incentive for providers to support residents to transition to alternative accommodation’. Stakeholder feedback suggested greater supports are needed to help residents develop their skills and to support them, where it is their preference, to find alternate housing.²⁴⁷

²⁴² OPG, public hearing transcript, Brisbane, 13 December 2023, p 13.

²⁴³ Submission 195, p 3.

²⁴⁴ Public Trustee, public hearing transcript, Brisbane, 13 December 2023, p 12.

²⁴⁵ Public Advocate’s Report, pp 34, 45.

²⁴⁶ Public Advocate’s Report, p 20.

²⁴⁷ Public Advocate’s Report, p 48.

Group Homes are supposed to help residents become self-sufficient and independent, such as through building capacity around self-care and life skills, but in reality they focus on building capacity and independence in areas that require their support but don't suit them, such as toileting, while otherwise deepening resident reliance on them in all other aspects so that you are ultimately dependent on them and will never leave. Residents are manipulated into staying in Group Home settings by being told that they are never going to get anything better, and that they just need to accept it because the only alternative is homelessness.

Submission 193, resident (anonymous)

Several submitters and stakeholders addressed the difficulty of exiting residential services, and provided possible ways of supporting residents to exert choice in their accommodation.

I want to find my own housing where I can live in my own place but stay connected with my supports ... I have a fair bit of money in a trust that is managed by the Public Trustee but they control how much I have access to. Living here and being clean has been helping because instead of spending it on drugs or alcohol I'm saving money up. The biggest problem with transitioning to my own place is finding housing because it's so hard. I don't have a great rental history so it's really hard to find a place that will take you and it takes years to get social housing.

Submission 151, resident (anonymous)

QCROSS advocated for 'improved exit planning from government services when people are leaving institutions (including health services, mental health services, correctional facilities, and out-of-home care)'.²⁴⁸

As mentioned previously, the Disability Royal Commission report stated that, where a person does not receive NDIS funding, coordinating services should sit with whichever agency is responsible for the service the person is exiting.²⁴⁹

The Public Advocate's Recommendation 2 from his submission to the Inquiry called for the introduction of case management within residential services to support their residents:

The Queensland Department of Housing, Local Government, Planning and Public Works should require providers of accredited level 3 residential services to arrange for individual independent assessments of the housing and support needs of all new residents, and bi-annual assessments of the housing and support needs of existing residents.²⁵⁰

In his view, case management would be particularly useful for assisting residents to find pathways out of residential services.

Case management might include assistance to find appropriate support services or even assistance to find alternative accommodation where the person indicates an interest in moving elsewhere and if, for instance, their health and support needs would be better met elsewhere. I parenthesise that by saying this is one reason case management would need to be provided by an entity other than the accommodation provider.²⁵¹

The Public Advocate's Recommendation 3 further considers the practicalities of case management:

The Queensland Government should fund and oversee the provision of case management services to supported accommodation residents who currently have significant unmet support needs.²⁵²

²⁴⁸ Submission 137, n.p.

²⁴⁹ RC Report, p 591.

²⁵⁰ Submission 16, p 2.

²⁵¹ Public Trustee, public hearing transcript, Brisbane, 13 December 2023, p 3.

²⁵² Submission 16, p 2.

The Public Advocate suggested, as a part of independent assessments, an assessor could enquire about a resident's preferences, including if they want to continue living in their current setting.²⁵³

Committee comment

The committee acknowledges the views of stakeholders that residential services are being used as places where people exiting clinical settings and correctional settings are unloaded, and often forgotten.

In our view it is important that residential services are not places where vulnerable people can be deserted. As such, we support recommendation 7.39 of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability's Final Report, and consider it highly relevant to the residential services industry. We see great value in requiring a lead agency to be responsible for the transition of individuals from institutional settings. If the individual is an NDIS participant, the NDIS should be the lead agency. If not, the lead agency should, as the Royal Commission found, 'be the agency responsible for the service or institutional setting at the time the person leaves'.

We believe it is important for these agencies to be proactively involved in helping with transition, and must not take the easy option of unloading residents who present a challenge or complex needs.

The committee supports recommendations 2 and 3 from the Public Advocate's submission, recommending residential services should arrange individual assessments to determine support needs for new residents, and regular re-assessments thereafter, and that the Queensland Government should fund and oversee case management services to residents with unmet support needs.

Recommendation 8

Endorsing the Public Advocate's Recommendation 2, the committee recommends the Department of Housing, Local Government, Planning and Public Works require providers of accredited level 3 residential services to arrange for individual independent assessments of the housing and support needs of all new residents, and bi-annual assessments of the housing and support needs of existing residents.

Endorsing the Public Advocate's Recommendation 3, the committee recommends that the Queensland Government should consider funding and oversight of the provision of case management services to supported accommodation residents who currently have significant unmet support needs.

²⁵³ Public Advocate, correspondence, 18 December 2023, attachment, p 4.

7 NDIS and service delivery in residential services

The advent of the NDIS has profoundly affected the delivery of support services in residential services. The Public Advocate's Report noted that level 3 residential services are home to significant numbers of individuals with impaired decision-making capacity and mental health concerns, including a high rate of residents who are NDIS participants.²⁵⁴

With disability supports becoming the jurisdiction of the federal government, states and territories have divested from disability support services. The AHURI Report (referred to in Chapter 6), stated:

the states and territories have withdrawn from service provision—including, in some cases, accommodation and support services targeted at people in contact with the criminal justice system ... However, there are signs, acknowledged by the NDIA, that such people are not reaching the new scheme.²⁵⁵

Submitters also raised concern that within a residential service, residents who receive NDIS funding are able to go on day trips and participate in activities. Following the divestment of state funding, however, those residents who do not have an NDIS package go without.

So I'm here to talk about what we need, and that we're not getting, so I look at people who live here, that go along with NDIS, they go along with Auscare. They go out places, they do things, they do them on a regular basis as well and I feel left out and I'm sure that most other people here that are not on the NDIS or not with Auscare, I'm sure that they feel left out as well because they don't have a way of getting out and being part of the world.

...

However, there is a class of people here where we are divided. There are those who go out and those who do not go out, and those of us who do not go out get jealous. Those of us who do not go out get stuck twiddling our thumbs.

Submission 159, resident (anonymous)

Accommodation, now legislated by both state and federal NDIS legislation, is subject to a complex and labyrinthine regulatory environment. For example, accommodation in a residential service is not NDIS funded, so is not tested against NDIS registration or accreditation standards. To provide NDIS funded Specialist Disability Accommodation, however, a provider must be registered with the NDIS Quality and Safeguards Commissions, compliant with the NDIS (Specialist Disability Accommodation) Rules 2020, and compliant with the NDIS (Registered Providers of Supports) Rules 2013.²⁵⁶ Newly built SDA accommodation will also be tested for compliance against the SDA Design Standard.²⁵⁷

In many cases, NDIS supports are being delivered to a person living in a residential service—this relates to NDIS participants whose NDIS package covers some variety of disability supports, but not their accommodation. As such, the supports themselves need to meet NDIS compliance requirements, but the accommodation does not. The concern raised by the Public Advocate is that there are significant numbers of people living with disability whose accommodation does not have the protections of the NDIS Practice Standards, nor the oversight of the NDIS Commission.²⁵⁸

²⁵⁴ Public Advocate's Report, p 18.

²⁵⁵ The Australian Housing and Urban Research Institute, *Exiting prison with complex support needs: the role of housing assistance* (AHURI Report), report, August 2021, p 33.

²⁵⁶ Australian Government, NDIA, *SDA Dwelling Enrolment and Vacancies*, ndis.gov.au/providers/housing-and-living-supports-and-services/specialist-disability-accommodation/sda-dwelling-enrolment.

²⁵⁷ Australian Government, NDIA, *SDA Design Standard*, ndis.gov.au/providers/housing-and-living-supports-and-services/specialist-disability-accommodation/sda-design-standard.

²⁵⁸ Public Advocate's Report, p 25.

The NDIS Commission conducts audits and investigates complaints. Section 73Z(4) of the NDIS Act mandates that the NDIS Commission must be notified when any of the following ‘reportable incidents’ occur:

- (a) the death of a person with disability; or
- (b) serious injury to a person with disability; or
- (c) abuse or neglect of a person with disability; or
- (d) unlawful sexual or physical contact with, or assault of, a person with disability; or
- (e) sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity; or
- (f) the use of a restrictive practice in relation to a person with disability, other than where the use is in accordance with an authorisation (however described) of a State or Territory in relation to the person.

The Public Advocate’s Report identified a number of key ‘impacts’ the implementation of the NDIS has had for residential services, which are considered below as part of this Inquiry’s terms of reference.

7.1.1 Conflicts of interest and transparency

A significant number of level 3 residential service providers have become registered NDIS providers since the implementation of the NDIS. Most commonly, this involves a level 3 provider setting up a company as an NDIS provider, so that it can deliver NDIS funded disability supports within their facility. In these cases, the facility and the NDIS provider are distinct legal entities, so are ostensibly separate, but in practice the supports are being delivered ‘in-house’ by the same team. The Public Advocate’s report noted there are potential benefits to this model, such as increased efficiency and reduced costs, but it can also cause conflicts of interest and transparency issues.²⁵⁹

For example, a lot of residents are under the financial administration of the Public Trustee of Queensland (Public Trustee). Public Trustee Officers, however, are not permitted to view a client’s NDIS plan, due to the NDIA’s privacy legislation. As such, the officers will not always be able to see whether services provided in a level 3 residential service’s rooming agreement (such as medication management) are already being funded under an NDIS plan. There is a risk the provider can bill for the same service twice, and a resident will be charged for a service already being covered by the NDIS.²⁶⁰

The Public Trustee provided written correspondence it received from the NDIA outlining its reasons for refusing to share information:

Reasons for non-compliance

Pursuant to section 67G of the NDIS Act, the Agency cannot in the current circumstances be compelled to provide NDIS documents or information to the Public Trustee for the purpose of its appointed role which is to administer financial matters, and as such, is not required to comply with this particular request.

Section 67G of the NDIS Act provides that:

A person must not, except for the purposes of this Act or the Royal Commissions Act 1902, be required:

- (a) to produce any document in his or her possession because of the performance or exercise of his or her duties, functions or powers under this Act; or*
- (b) to disclose any matter or thing of which he or she had notice because of the performance or exercise of such duties, functions or powers;*

²⁵⁹ Public Advocate’s Report, p 33.

²⁶⁰ Public Advocate’s Report, p 33.

*To a court, tribunal, authority or person that has power to require the production of documents or the answering of questions.*²⁶¹

The Public Trustee advised that while rooming agreements should outline the individual costs of accommodation, food, and support services, there is great variability between what different providers are charging, and how well it is being documented. Often, for example, they are not seeing a breakdown of the care services. Consequently, it is difficult for Public Trustee Officers to have confidence that residents are being fairly charged.²⁶²

The Public Trustee outlined to the committee some of the issues challenging its office:

The difficulty we have at the moment is that the NDIS is not recognising our authority as a decision-maker. We do not necessarily have visibility of our customers' NDIS plans. We do not know if care and support services are funded under an NDIS plan and delivered in a level 3 supported accommodation facility. They may have a charge on their rooming agreement for care and supports, but they also may be an NDIS participant or receiving other government subsidies and we do not have visibility about what services are funded by those programs. There could be double dipping; we do not know.²⁶³

As well as a lack of transparency, the Public Advocate noted the potential for these organisational structures to reduce residents' choice and control—a fundamental tenet of the NDIA's service delivery model. Submissions received by the committee indicated a variety of concerning provider behaviours, including bullying or pressuring residents to use in-house supports. Several submitters advised, for example, that their level 3 residential service currently allows access to NDIS and aged care providers, but the facility's owner intends to change this, 'removing the freedom of choice and control of the residents', so they can establish their own support services.²⁶⁴

In its submission, the Queensland Mental Health Commission (QMHC) noted that 'Support providers such as landlords can negatively impact upon the choice and control of residents and potentially lead to a clear conflict of interest', as well as fuelling the 'social isolation, and quasi-institutionalisation of residents'. The QMHC contended that costs for residents in supportive housing should be 'independent, transparent and reflect realistic costs'.²⁶⁵

The Queensland Council of Social Services' (QCOSS) submission similarly found that limiting support services to a single provider is troubling:

Feedback from QCOSS members and stakeholders also indicated that the provision of accommodation, food, personal care, and NDIS services by the same providers was a significant concern because it creates circumstances where there is limited choice and control for the resident, conflicts of interest, poor quality and cost controls. This feedback is consistent with feedback reported in the Public Advocate's Report.²⁶⁶

Conversely, on a number of separate occasions during their site visits, the committee heard accounts of external NDIS support providers sitting in their vehicles outside of the facility for the duration of the scheduled time of the service they were there to provide, or sitting with the resident in a common area watching television. Similar practices were also identified by the Uniting Church of Australia in its submission.²⁶⁷

²⁶¹ Public Trustee, correspondence dated 19 January 2024, attachment 1, p 1.

²⁶² Public Trustee, public hearing transcript, Brisbane, 13 December 2023, pp 8-9.

²⁶³ Public Trustee, public hearing transcript, Brisbane, 13 December 2023, p 9.

²⁶⁴ Submission 11, p 2; submission 149, p 2.

²⁶⁵ Submission 123, p 4.

²⁶⁶ Submission 137, p 6.

²⁶⁷ Submission 138, p 18.

7.1.2 Potential for abuse, neglect, and exploitation of NDIS participants

The Public Advocate's Report also noted that participants with high-value NDIS packages 'may be at risk of abuse, neglect, and exploitation'. The Public Advocate cited reports in Victoria where residents have been 'financially abused and coerced into changing accommodation providers to enable unscrupulous providers to access their NDIS funds', and that there are concerns of similar practices in other states, including Queensland.²⁶⁸

The Mental Health Legal Centre's (MHLC) interim report to the Multiagency Choice and Control Project stated:

'Choice and control' for people living with psychosocial disabilities in congregate care environments is only theoretical. The current system enables, and in many cases facilitates and financially rewards, exploitative and coercive practices. These practices include limiting access to supports, neglect, emotional manipulation, bribery, financial abuse and kidnapping.²⁶⁹

The University of Melbourne's report, *Outcomes associated with 'inclusive', 'segregated' and 'integrated' settings: Accommodation and community living, employment and education* (UOM Report), was commissioned by the Disability Royal Commission and considered various accommodation models available to people with disability, including residential services.²⁷⁰ The UOM Report noted the inherent risk of congregated living arrangements for people with disability:

The Senate Community Affairs Reference Committee 2015 report into violence, abuse and neglect against people with disability in institutional and residential settings supported the view that 'institutional and congregate care models of service delivery are themselves major factors in the prevalence of violence, abuse and neglect of people with disability'. Several studies show that segregated and/or communal living settings do not fulfil the Disability Royal Commission vision of quality and safety. Indeed, studies suggest these settings often have the opposite effects.²⁷¹

In its submission to the NDIS Review (launched by the Minister for the National Disability Insurance Scheme, the Hon Bill Shorten MP on 18 October 2022), the MHLC found that people with disability who live in supported residential services (the Victorian equivalent of level 3 residential services) and NDIS funded accommodation, 'are particularly vulnerable to exploitation, financial abuse and coercive control'. Further, the MHLC contended that strong financial motives for working with people with disability have emerged, but suitable and proportional safeguards to protect against predatory business practices are missing.²⁷²

The submission from the Summer Foundation to this Inquiry echoed this sentiment, stating 'People with disability living in supported accommodation are highly vulnerable to violence, abuse, neglect and exploitation', and this is exacerbated 'when they are isolated and deprived of choice and control over the services they receive'.²⁷³ Similarly, QAI's submission stated:

The Disability Royal Commission has also unequivocally demonstrated the violence, abuse, neglect, and exploitation that occurs in institutional and congregated settings, particularly when accommodation and

²⁶⁸ Public Advocate's Report, pp 34-5.

²⁶⁹ Mental Health Legal Centre, Multiagency Choice and Control Project, 3-month interim report, 2023, p 1, cited in Public Advocate's Report, p 33.

²⁷⁰ University of Melbourne, *Outcomes associated with 'inclusive', 'segregated' and 'integrated' settings: Accommodation and community living, employment and education* (UOM Report), research report for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, 2022, p 122.

²⁷¹ UOM Report, p 37.

²⁷² MHLC Multiagency Choice and Control Project, submission (SUB-G3M1-001755) to the NDIS Review, June 2023, ndisreview.gov.au/sites/default/files/submissions/SUB-G3M1-001755%20-%20mhlc-choice-control-response-to-ndis-review-safeguards-june-23_0_clean.pdf, accessed 27 May 2024.

²⁷³ Submission 126, p 1.

personal supports are provided by the same provider. People with complex or high support needs are particularly vulnerable to abuse.²⁷⁴

7.1.3 Oversight and safeguards—lowering levels of accreditation

The Public Advocate’s Report noted that a residential service that only houses NDIS participants may be able to lower its level of accreditation. If a provider also operated a registered NDIS service, the residential service would no longer require a level 3 registration. As the personal care would no longer be the remit of the residential service, registration at level 1 (or 1 and 2) would be sufficient. The Public Advocate noted:

This means that a key safeguard afforded to people living in level 3 residential services, visits from the Queensland Public Guardian’s official Community Visitor Program, are no longer provided. In this way, the interface between residential services and the NDIS effectively creates an avenue through which level 3 residential service providers can avoid this oversight.²⁷⁵

During a public hearing, the Public Trustee echoed this sentiment:

We are kind of stuck a little bit in that if residents are not in a level 3, you lose the visibility of the Community Visitor Program going into that facility, whereas realistically if they are getting their care and support services funded by another entity such as the NDIS most of them would probably sit on that level 2 residential service, not the level 3. Because they do not need the care and supports, they are not having to self-fund those. Then you lose the visibility of the community visitor going into the facility and having that oversight and that protection for those vulnerable people. It is a really tricky one.²⁷⁶

Section 39 of the PG Act defines a ‘visitable site’ as:

- (a) an authorised mental health service under the Mental Health Act 2016 that provides inpatient services; or
- (b) the forensic disability service; or
- (c) premises, other than a private dwelling house, at which a funded adult participant lives and receives services or supports that—
 - (i) are paid for wholly or partly from funding under the national disability insurance scheme; and
 - (ii) are provided under the adult’s participant’s plan; and
 - (iii) are provided by a registered NDIS provider that is registered under the National Disability Insurance Scheme Act 2013 (Cwlth), section 73E to provide a relevant class of supports; and
 - (iv) are within the relevant class of supports; or
- (d) a place, other than a private dwelling house, that is prescribed under a regulation.

Despite the potential for residential services to lower their accreditation, the OPG’s Community Visitor Program is also authorised to visit a site in which a registered NDIS provider (see s 39(c)(iii)) operates. This would increase the likelihood that community visitors could access a site.

A factsheet on the OPG’s website states that the Community Visitor Program covers ‘disability accommodation provided or funded by the Department of Communities, Disability Services and Seniors or the National Disability Insurance Scheme (NDIS)’.²⁷⁷

²⁷⁴ Submission 128, p 11.

²⁷⁵ Public Advocate’s Report, p 12.

²⁷⁶ Public Trustee, public hearing transcript, Brisbane, 13 December 2023, p 12.

²⁷⁷ Public Guardian, *How Community Visitors advocate for adults*, publicguardian.qld.gov.au/about-us/community-visitor-program/adult-community-visitors, accessed 25 March 2024.

The NDIS Commission website outlines that not all NDIS service providers need to be registered. To be a visitable site, however, supports must be provided ‘by a registered NDIS provider’ (s 39(c)(iii), above).

Notably, certain NDIS supports can only be provided by a registered provider. These supports include specialist disability accommodation, any services that are likely to need to use a restrictive practice, and specialist behaviour supports that involve behavioural assessments to develop a behaviour support plan.²⁷⁸ This means any facility that provides any of these supports is a visitable site. This should limit the number of providers whose sites cannot be visitable.

If the accommodation itself is not NDIS funded, however, and the support services offered do not require registration, it is conceivable a site might not be visitable. For this to occur, no residents could be in receipt of a support from a registered provider. Whether this is a significant risk is unclear; however, it does seem to be a possibility.

7.1.4 NDIS funding for home modifications

The Public Advocate’s Report noted the physical environment of some level 3 residential services is not suitable for people with disability. Residents who are NDIS participants may have access to NDIS funding for home modifications to better accommodate their needs; however, service providers may be reluctant to allow their property to be modified. Particularly, should a resident leave, there may be a need to remove the modifications—possibly at the owner’s expense.²⁷⁹

This is a reality acknowledged in the NDIS Review’s report *Working together to deliver the NDIS* (NDIS Review Report), which stated:

we have heard about the challenges with getting home modifications for private rentals. In determining value for money for home modifications, the National Disability Insurance Agency (NDIA) takes into account whether tenure is secure and there is written approval from their landlord. We have heard that even when landlords are amenable to a tenant making modifications, obtaining support for modifications through the NDIS can be difficult.²⁸⁰

7.1.5 NDIS funding to promote skills and independence

One impact identified by the Public Advocate related to the lack of skill and independence building activities in level 3 residential services. The Public Advocate noted that an NDIS package may provide funding for capacity building activities such as meal preparation guidance. If a residential service provides meals in accordance with the RSA Regulation as a level 2 residential service, its main kitchen needs to meet the Australia New Zealand Food Standards Code, which would preclude residents from using it. Unless there is a second private kitchen, residents would not have access to a kitchen in which they could receive such guidance.²⁸¹

²⁷⁸ NDIS Quality and Safeguards Commission, *Unregistered provider obligations*, ndiscommission.gov.au/providers/registered-ndis-providers/provider-obligations-and-requirements/unregistered-provider.

²⁷⁹ Public Advocate’s Report, p 36.

²⁸⁰ Australian Government, Department of the Prime Minister and Cabinet, *Working together to deliver the NDIS - Independent Review into the National Disability Insurance Scheme: Final Report* (NDIS Review Report), 2023, p 147.

²⁸¹ Public Advocate’s Report, pp 36-37.

7.1.6 Restrictive practices

The Public Advocate's Report noted stakeholder concerns about restrictive practices being used in level 3 residential services. The Public Advocate reported that the extent to which restrictive practices are being used is unknown, and the appropriateness of their authorisation is unclear.²⁸²

According to the NDIS Commission, the term restrictive practice describes a practice or intervention that restricts the rights or freedom of movement of a person with disability. Certain practices are subject to regulation under the National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018. These include any practices that involve 'seclusion, chemical restraint, mechanical restraint, physical restraint and environmental restraint'.²⁸³

The Public Advocate noted that current authorisation processes are complex and can create uncertainty for disability service providers.

DCSSDS advised it is leading a Positive Behaviour Support and Restrictive Practices Review. This review will work toward assessing 'the policy, financial, and legislative implications of aligning Queensland's restrictive practices authorisation framework with the NDIS Rules and moving toward greater national consistency in authorisation processes for the use of restrictive practices'.²⁸⁴ The DCSSDS webpage for the review, last updated in August 2023, states that consultation for the review has been completed, and the Queensland Government is considering the feedback it received'.²⁸⁵

In *Adult Safeguarding in Queensland, Volume 2: Reform recommendations* (Adult Safeguarding Report) the Public Advocate highlighted some of the complexities and proposed areas for reform. The current model for the use of restrictive practices is consent-based, and depending on the specific practice and the duration it is being authorised for, may involve decision-makers such as 'QCAT, the Public Guardian, private guardians appointed to approve restrictive practices' or the chief executive of the relevant department. The Public Advocate also noted a complex interplay between federal and state requirements that govern restrictive practices.²⁸⁶

Elsewhere, Dr Chesterman is critical of the current consent-based model, finding that,

Even when the restrictive practice is chemical – in the form of a pill – we need to differentiate this from medication since the aim is behaviour modification; not the treatment and amelioration of an illness.

Far more common than the person's own consent, it is substitute consent that will be provided – the consent of another person. And someone who is asked to consent to a restrictive practice being used on a loved one will be in an invidious position. They will rarely have the clinical or behavioural expertise to push back or offer alternative solutions. And inevitably they will fear the consequences for their loved one if they don't go along with the proposal.²⁸⁷

The Adult Safeguarding Report recommended that:

²⁸² Public Advocate's Report, p 46.

²⁸³ Australian Government, NDIS Quality and Safeguards Commission, *Understanding behaviour support and restrictive practices - for providers*, ndiscommission.gov.au/providers/understanding-behaviour-support-and-restrictive-practices-providers.

²⁸⁴ DCSSDS, correspondence, 19 January 2024, attachment, p 11.

²⁸⁵ DCSSDS, Restrictive Practices Review, 4 August 2023, dcssds.qld.gov.au/our-work/disability-services/positive-behaviour-support-restrictive-practices/restrictive-practices-review.

²⁸⁶ Office of the Public Advocate, *Adult Safeguarding in Queensland, Volume 2: Reform recommendations* (Adult Safeguarding Report), p 63, November 2022, justice.qld.gov.au/__data/assets/pdf_file/0011/749027/adult-safeguarding-vol-2-final.pdf, accessed 27 May 2024.

²⁸⁷ J Chesterman, *Stopping the inappropriate use of restrictive practices*, Australian Ageing Agenda, 2022, n.p., australianageingagenda.com.au/clinical/stopping-the-inappropriate-use-of-restrictive-practices.

The Queensland Government should adopt a senior practitioner model for the authorisation of restrictive practices that can be utilised across sectors including the disability, aged care, and health sectors.²⁸⁸

This, the report argued, could help to overcome challenges associated with the current consent-based model, and could be applied in multiple settings, such as in the community, in residential aged care, and in healthcare environments. It would be a single process, and would help to reduce confusion and uncertainty about the authorisation process.²⁸⁹

Recommendation 6.35 of the RC Report also addressed the authorisation processes for restrictive practices:

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final report, Volume 6, *Enabling autonomy and access*, September 2023, pp 512-13.

Recommendation 6.35 Legal frameworks for the authorisation, review and oversight of restrictive practices

- a. States and territories should ensure appropriate legal frameworks are in place in disability, health, education and justice settings, which provide that a person with disability should not be subjected to restrictive practices, except in accordance with procedures for authorisation, review and oversight established by law.
- b. The legal frameworks should incorporate the following requirements, appropriately adapted to sector-specific contexts:
 - Restrictive practices should only be used:
 - as a last resort, in response to a serious risk of harm to a person with disability or others, and only after other strategies, including supported decision-making, have been explored and applied
 - as the least restrictive response possible to ensure the safety of the person with disability or others
 - to the extent necessary to reduce the risk of harm and proportionate to the potential negative consequences from the use of restrictive practices
 - for the shortest time possible.
 - Decisions to authorise restrictive practices should be subject to independent review.
 - The use of restrictive practices should be subject to independent oversight and monitoring.
- c. The legal frameworks should set out the powers and functions of a Senior Practitioner for restrictive practices in disability service provision (or equivalent authority). These powers and functions should include:
 - promoting the reduction and elimination of the use of restrictive practices
 - protecting and promoting the rights of people with disability subjected to restrictive practices
 - developing and providing information, education and advice on restrictive practices to people with disability, their families and supporters, and the broader community

²⁸⁸ Adult Safeguarding Report, p 64.

²⁸⁹ Adult Safeguarding Report, p 64.

- considering applications to use restrictive practices in disability service settings and authorising their use according to procedures consistent with the Draft Principles for Consistent Authorisation
- developing guidelines and standards, and providing expert advice, on restrictive practices and behaviour support planning
- receiving complaints about the use of restrictive practices and the quality of behaviour support planning
- investigating the use of restrictive practices and the quality of behaviour support planning, either in response to complaints or of its own motion
- acting in response to complaints and investigations where appropriate.

Committee comment

The committee notes the ongoing work of the Department of Child Safety, Seniors and Disability Services with its Positive Behaviour Support and Restrictive Practices Review. We also note the department has undertaken public consultation and is considering the feedback of the Restrictive Practices Review.

We encourage the DCSSDS to continue with this important work, and to give due consideration to the current regulatory complexity around the use of restrictive practices as it pertains to level 3 residential services. We have received evidence of the harm that can result from poorly administered restrictive practices and the physical and emotional damage that results.

There would be great value, we view, in giving strong consideration to the ‘senior practitioner model’ recommended by the Public Advocate, and Recommendation 6.35 of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability’s Final Report.

We also note there has been recent debate around whether such practices should be used at all. Whatever the outcome of this debate, we endorse any current actions that will prevent the overuse, or misuse, of these practices.

SAPA noted that the authorisation of restrictive practices is specific to NDIS supports. When an NDIS participant is residing in a level 3 residential service, the residential service provider is only required to report an incident of restrictive practices to the NDIS Commission if the individual is an NDIS participant (section 12). SAPA also stated that if it is mandated that the residential services sector must comply with restrictive practices standards, this would prevent staff from being able to neutralise any threats.²⁹⁰

Providers should not be penalised for keeping others safe. The result of resident threatening others creates a ripple effect that negatively impacts others causing others to escalate at the same time, which makes it extremely difficult to manage.²⁹¹

SAPA added that ‘The sector cannot afford to carry the costs of increased compliance and regulation without significant ongoing government funding’.²⁹²

The Public Advocate, borrowing from Recommendation 7.38 of the RC Report (provided in full in chapter 9), outlined in his submission the need for a ‘person-centred regulatory approach’. Within this recommendation was a requirement that supported accommodation providers should ‘develop support plans for each resident, covering personal care, financial management, medication

²⁹⁰ Submission 1, n.p.

²⁹¹ Submission 1, n.p.

²⁹² Submission 1, n.p.

management, and the use of restrictive practices'. It also recommended providers should be required to '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'.²⁹³

As noted, the Public Advocate called for the implementation of a supported accommodation safeguarding framework, to include 'the clear regulation of restrictive practices in supported accommodation settings, utilising a Senior Practitioner authorisation model'.²⁹⁴

Several other submitters also supported a more rigorous approach to restrictive practices. The Queensland Mental Health Commission declared that effective oversight and legislation are needed to support residents' human rights, 'including the use of least restrictive practices'.²⁹⁵ QIDAN said staff should be highly trained in the use of restrictive practices and that a quality and safeguarding framework be developed that 'strongly underpins accountability'.²⁹⁶ The Uniting Church supported recommendation 6.35 of the RC Report, and recommended the framework be applied to residential services.²⁹⁷ MICAH Projects said providers need better education in restrictive practices, to ensure their policy and use is implemented according to guidelines.²⁹⁸ QDN called for 'Clear regulation of restrictive practices using a Senior Practitioner model', as recommended by the Public Advocate.²⁹⁹

7.1.7 Choice and control

One of the fundamental objectives of the NDIS Act is promoting people with disability to have 'choice and control' in their supports, and their lives more broadly.

Under objects and principles, the NDIS Act states one of its objects is to 'enable people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their support'.³⁰⁰ Under section 4, 'General principles guiding actions under this Act', it states—

- (8) People with disability have the same right as other members of Australian society to be able to determine their own best interests, including the right to exercise choice and control, and to engage as equal partners in decisions that will affect their lives.
- (9) People with disability should be supported in all their dealings and communications with the Agency and the Commission so that their capacity to exercise choice and control is maximised in a way that is appropriate to their circumstances and cultural needs.³⁰¹

A common theme identified throughout this Inquiry has been that residents living in residential services are not afforded sufficient choice and control over their lives—whether they are in receipt of NDIS funding or not.

Limitations on choice and control are manifested in a variety of ways, considered below.

7.1.7.1 Choice of provider

As noted above, there is growing concern that providers are opting to institute their own in-house supports and pressuring residents to use them exclusively. The Public Advocate heard from stakeholders that residents may be discouraged, or in some cases prohibited, from using external NDIS

²⁹³ Submission 16, pp 6-7.

²⁹⁴ Submission 16, p 3.

²⁹⁵ Submission 123, p 5.

²⁹⁶ Submission 197, p 17.

²⁹⁷ Submission 138, p 69.

²⁹⁸ Submission 192, p 6.

²⁹⁹ Submission 195, p 10.

³⁰⁰ NDIS Act, s 3(1)(e).

³⁰¹ NDIS Act, s 4(8-9).

providers, or may be forced to use the residential service's preferred provider.³⁰² Such practices would disregard the general principle in the Act which states that:

In exercising their right to choice and control, people with disability require access to a diverse and sustainable market for disability supports in which innovation, quality, continuous improvement, contemporary best practice and effectiveness in the provision of those supports is promoted.³⁰³

As well as being highly critical of congregated housing environments for people with disability, the UOM Report said the following about the importance of choice, and the need for it to be extended to people with disability:

Key to good inclusive practice is the individual's opportunity to exercise choice and self determination, and to have available the supports and empowerment to exercise such rights. These choices might be in everyday situations around the home, choices about personal relationships, career decisions, healthcare decisions, spending money, or exercising the right to vote at an election. Such practice necessarily encompasses the rights to self-expression and to take risks. In embracing inclusion as a community, we need to embrace risk with respect to where we live and where we go to school, the activities we engage in for daily living, recreation, or work, and in our relationships.³⁰⁴

Ms Alison Maclean, a consultant with QDN, spoke at the public hearing about her own experiences in a level 1 residential service. She advised that although she had a bedroom, she had little privacy, as people would barge in. She would have to wait hours to use the washing machine. There was access to a kitchen, but no-one there to help her develop her cooking skills. In contrast, she now lives in a one-bedroom housing unit. She has a dog, privacy, choice to govern her own life, and NDIS supports to help her do so.³⁰⁵

Some of the things that stood out for me were: people did not like the lack of food choices. Some people told us about their health conditions and how the food did not cater for their needs. Some people said they did not like that they did not have a choice about who they lived with and where they lived. Some people said they wanted to move. Some people said they were paying more money than other people and they did not know the benefits they were getting. I think it was very confusing for people. I heard people talk about being on the NDIS. Some people said they did not get the support they needed. Some people told me about their dreams to get a job or volunteer. Some people talked about wanting to go out more so they could meet people and make friends, but they said that their NDIS supports were not helping them with that. Other people told us about having no other supports, just what the staff of the level 3s helped them with.

Alison MacLean, Consultant, Queenslanders with Disability, public hearing transcript, Brisbane, 23 February 2024

Submissions to the Inquiry provided evidence that practices to reduce choice and control are a serious concern. One submitter advised that 'The support workers are internal and work here ... I wanted to organise my support workers ... but the manager told me that it would be too hard, so I didn't have a choice'.³⁰⁶ Another reported the facility her family member stayed in enforced 'Strict Rules prohibiting client's freedom of choice and control'.³⁰⁷

How to manage this, however, is a contentious issue.

Multiple stakeholders and submitters contended there should be a separation between the provision of accommodation and support services. This is consistent with recommendation 9.6 of the NDIS

³⁰² Public Advocate's Report, p 34.

³⁰³ Section 4(15) of the NDIS Act.

³⁰⁴ UOM Report, p 122.

³⁰⁵ A MacLean, Consultant, QDN, public hearing transcript, Brisbane, 23 February 2024, p 3.

³⁰⁶ Confidential submission.

³⁰⁷ Submission 12, p 4.

Review Report, which advocated for the mandatory separation—both legal and practical—of SDA and support providers (except in limited circumstances, such as when in a remote location that makes the separation unfeasible).³⁰⁸ Notably, this recommendation relates specifically to NDIS funded accommodation, but some stakeholders considered such separation is essential in the regulation of residential services.³⁰⁹

Q Shelter and Micah Projects submitted that the provision of accommodation and personal care services be separated so that residential service providers do not provide both to residents. According to Q Shelter, this would align with the Queensland Government’s *Housing Principles for Inclusive Communities*, which states:

where a person requires support in their home, the provision and management of their housing should be separate from the provision and management of their paid supports.³¹⁰

Micah Projects however, acknowledged that in some instances it may not be cost effective for simple personal care services to be delivered separately, and could continue to be the responsibility of the accommodation provider where properly regulated.³¹¹

Similarly, the Uniting Church noted that the government’s *Housing Principles for Inclusive Communities* promote the principal that ‘the provision and management of [a person’s] housing should be separate from the provision and management of their paid supports’.³¹²

These views resonate with the findings of the Royal Commission, which noted that 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’.³¹³

QDN said it is important that ‘there is separation between who provides the support and who is the landlord.’ QDN acknowledged there may be circumstances, however, such as in regional and remote areas, where this is not practicable, and certain personal needs (such as showering) may be in the remit of the provider.³¹⁴

QAI acknowledged there are likely cost benefits to bundling accommodation and support services, but contended these benefits are eclipsed by the inherent risks of such a model:

this Inquiry is an opportunity to strive for best practice and what contemporary understandings of our human rights obligations are. I think it is important to note that we have just had a very lengthy disability royal commission which has examined and heard extensive evidence of the abuse, neglect and exploitation of people with disability that can happen in settings, particularly where there is that dual role for providers to provide accommodation and support services, and it actually was a key recommendation of the Inquiry for that to be separate. Not only did the disability royal commission recommend that to be separate; the Independent Review of the National Disability Insurance Scheme has made a similar recommendation for the provision of accommodation and support services in the context of specialist disability accommodation. I would note that the principle of having them separate is part of Queensland’s

³⁰⁸ Australian Government, Department of the Prime Minister and Cabinet, *Working together to deliver the NDIS - Independent Review into the National Disability Insurance Scheme: Final Report* (NDIS Review Report), 2023, p 153.

³⁰⁹ See submissions 123, 126, 127, 128, 138, 145, 192, 197.

³¹⁰ Submission 127, p 18.

³¹¹ Submission 192, p 2.

³¹² Submission 138, p 14.

³¹³ RC Report, Volume 7, p 626.

³¹⁴ QDN, public hearing transcript, Brisbane, 23 February 2024, p 2; see also, recommendation 9.7 of the NDIS Review Report, which suggests any exceptions to the separation of accommodation and support provision, such as in remote areas, should be clearly specified, p 153.

Housing Strategy principles as well. It is an important principle and it is not necessarily going to be easy to get there, but it is the right thing to do.³¹⁵

On the other hand, Mr Lee Reynolds, the General Manager of the Avalon Village residential service declared ‘Time and time again critical agencies and organisations take the position or even mandate that internal services are harmful’. In Mr Reynolds view, the risk is not due to this particular business model; rather, it is the consequence of a failing regulatory system:

[separating accommodation and services] creates a fundamental barrier in the person’s choice and control by removing what could be their preferred choice. This simply removes many options from residents. Do the residents not have a say in their decisions? They have a choice to perhaps want services from the staff of the accommodation provider with whom they are familiar and continuity of supports. If there are bad operators—and we acknowledge that there are—who are removing people’s choice and control and providing bad services, then the regulatory bodies must enforce the power that has been invested in them.³¹⁶

SAPA advised the committee it believed residential service providers are best positioned to provide supports, as staff are familiar with the residents, their needs, and their behaviours. SAPA said,

We pretty much basically live with the guys. We know everything about them. We know their medications. We know their health matters. We know that sort of thing. We feel it needs to come from internally. In order for them to get continuity of care and for things to be sorted out.³¹⁷

SAPA further noted that, while organisations like the Public Trustee may want to remove a care component from a rooming agreement because a resident receives supports from the NDIS, a residential provider still has a duty of care, and caring duties may still fall upon them. SAPA said, ‘The NDIS staff are on scheduled services. They are not here after-hours. They are not here in emergencies. My staff is here, so you cannot take that away’. If, for example, a resident soils themselves after the NDIS service provider has left the facility, the residential service provider will be the one to help out.³¹⁸

The provision of NDIS supports, in other words, only goes so far, and residents of level 3 services are presumably not eligible for NDIS funded SDA housing. Or perhaps some are eligible for an NDIS package, but they have not been provided with sufficient support to access it.

7.1.7.2 Complexity and confusion

The Public Advocate heard that the complex regulatory environment, spanning numerous state and federal agencies, can be difficult to navigate for people with disability.³¹⁹

The NDIS Review found that following the advent of the NDIS, ‘in an attempt to respond to the diversity of people’s needs and circumstances, the scheme has become incredibly complex and confusing’. The review said that the strongest feedback received was that ‘people want an end to the complexity and uncertainty. They want a system that is easier to navigate, fairer, and more consistent. They also want more support outside the NDIS.’³²⁰

³¹⁵ QAI, public hearing transcript, Brisbane, 23 February 2024, p 6.

³¹⁶ Lee Reynolds, General Manager, Skymac Pty Ltd (trading as Avalon Village), public hearing transcript, Brisbane, 23 February 2024, p 28.

³¹⁷ SAPA, public hearing transcript, Brisbane, 13 December 2023, p 26.

³¹⁸ SAPA, public hearing transcript, Brisbane, 13 December 2023, p 27.

³¹⁹ Public Advocate’s Report, p 38.

³²⁰ NDIS Review Report, p 33.

The NDIS Review said:

We have gone from a rationed system with few options, no choice and almost no control. Now, we have a system where the rhetoric of choice and control is not supported by the experiences of people with disability. For many, poor availability of services, complexity of navigating what is available and difficulty in moving between providers means, in practice, there is little to no choice and control.³²¹

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

The UOM Report, commissioned by the Disability Royal Commission, considered various accommodation models available to people with disability, including residential services. The report found that:

With respect to policy and practice, there is a need to address: organisational issues and management practices that, at best, fail in their duty of care to resource the necessary oversight of service provision, and, at their worst, focus on safeguarding organisations rather than people; workforce issues where staff don't receive necessary training, mentorship, or supervision; client issues, where people with disabilities are isolated and disempowered and lack the necessary knowledge, means and support to voice their concerns; and external factors, including family and community attitudes, lack of disability awareness by law enforcement agencies, and a lack of any properly constituted national agency to register and oversee the direct care workforce.³²²

With regard to NDIS participants, the UOM Report recommended 'Congregated accommodation settings (eg, institutions, hostels, and boarding house-like facilities) need to be closed'. The researchers wrote that these facilities are unsafe and cannot deliver at the expected standards of the NDIS Act.³²³ Further, the UOM report found that group home accommodation, defined by NDIS policy as having no more than 4 or 5 people, should be subject to close scrutiny:

recognising that while such services can effectively address the support needs of some people, the risk of institutionalised practices being adopted remain high, and the safety of residents and their quality of service (including the exercise of individual choice and control, and inclusion in the wider community) require intense, sustained and well-resourced evidence-based strategies and accompanying oversight.³²⁴

The Disability Royal Commission found that immediate reforms to the group home model were necessary as an interim measure, to increase safety and autonomy of residents, and to ensure they are heard. Longer term, however, the Commissioners considered 'that the continued existence of segregated housing for people with disability will slow the development of alternative, inclusive housing options for people with disability'. The RC Report suggested that while group homes continue to operate as a housing option for people with disability, there is 'little cause or compulsion' to establish inclusive housing models.³²⁵ The RC Report stated,

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.

³²¹ NDIS Review Report, p 32.

³²² UOM Report, p 50.

³²³ UOM Report, p 50.

³²⁴ UOM Report, p 50.

³²⁵ RC Report, Volume 7, p 642.

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.³²⁶

The RC Report made the following recommendation:

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final report, Volume 7, Inclusive education, employment and housing, September 2023, pp 627-8.

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.

Committee comment

The committee notes that the current regulatory and legal environment people with disability living in residential services face is complex and difficult to navigate. The committee is of the view this difficulty has been exacerbated by a lack of communication and interaction from the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission.

The committee was at first surprised, then troubled, to be advised that neither organisation was willing to participate in public hearings for this Inquiry. Given the Inquiry relates to the housing and supports of vulnerable people, many who receive some degree of NDIS funding, we are perplexed by the indifference we encountered. We strongly feel these federal bodies need to be more interactive with state governments. As the *NDIS Review: Working together to deliver the NDIS* found, NDIS reforms to date have involved consultation that was ‘tokenistic, siloed and rushed’.³²⁷ The NDIS Commission wrote a report regarding supported accommodation, but did not see sufficient value in speaking with the committee about its findings.

It is clear the advent of the NDIS has created a great deal of complexity and confusion in the disability sector, with knock-on effects to the states, territories, and their numerous agencies. The committee is of the view the National Disability Insurance Agency and the NDIS Quality and Safeguards

³²⁶ RC Report, Volume 7, p 642.

³²⁷ NDIS Review, *The foundations for successful implementation*, <https://www.ndisreview.gov.au/resources/reports/working-together-deliver-ndis/part-four-five-year-transition/foundations>.

Commission need to be less insular: they need to engage in genuine collaboration, consultation, and interaction with the agencies and organisations they have impacted.

Recommendation 9

The committee encourages the Australian Government to significantly invest in the NDIS Quality and Safeguards Commission to better fund its capacity to conduct investigations and respond to complaints in state and territory jurisdictions.

The committee recommends the Queensland and Australian governments consider a more collaborative approach to investigating and addressing allegations of substandard service providers operating in Queensland.

Committee comment

The committee is concerned about the potential conflicts of interest that may arise when accommodation and supports are provided by the same provider.

We are also cognisant that the provision of ‘in-house’ support services may be, in some circumstances, the only available option, such as in rural and remote settings.

Ensuring participants can exercise ‘Choice and control’ is a central tenet of the NDIS and should be taken seriously. Where there is a greater variety of support options residents need to have access to them without fear of reprisal. What is clear, is that practices of bullying residents or threatening them with eviction if they don’t use in-house supports cannot be tolerated.

There seems to us several opportunities to prevent these practices. Firstly, there needs to be greater regulation and monitoring of the sector. Both state and federal governments must work to enforce high standards for those living in residential services. This includes that they have access to a variety of supports, the freedom to exert their own preferences, and are supported to navigate their choices and make informed decisions.

Secondly, we agree that, where possible, supports and accommodation should be separated.

Of course, this raises some challenges. It is easy to establish a ‘separate’ legal entity that is run by the same core group of people. Some careful drafting would be required to make such legislative reform meaningful.

There is also the question of financial viability for residential service providers. We have heard that, without being able to provide these services, such facilities would no longer be viable. If we assume this to be true, reforms to separate service provision from accommodation would likely disadvantage residents—putting them at risk of losing their supports, and perhaps becoming homeless.

Any efforts to separate accommodation from service provision would therefore necessitate some degree of government funding for residential service providers who provide accommodation for people with disability.

8 Residential service delivery – sustainability of the sector

8.1 Service providers

Residential service providers are privately owned and operated and not in receipt of any funding from the department.³²⁸ Nathan Johnson, Vice Chair of SAPA advised the committee:

The industry's viability hangs in the balance and the need for immediate reform is pressing. As representatives of SAPA, it is our responsibility to address these critical challenges with you head-on. Our industry is tasked with caring for some of the most vulnerable in our community. It is faced with unprecedented strains. The complexity of those being referred to us is increasing by the day. We face spiralling costs, no government funding and regulatory complexities.³²⁹

The RSA Act does not regulate the amount that a residential service provider can charge for rent, the provision of meals, or personal care services. The Public Advocate noted that fees and charges are not regulated and observed that all fees and charges are decided by individual providers and can vary significantly.³³⁰ The department advised that the RS Act does not specifically provide for the department collecting or publishing the costs and charges borne by residents in residential services, nor are service providers obliged to provide the department with data on the costs and charges paid by residents living in the residence.³³¹

During the course of the Inquiry the committee heard from service providers who attested to the vulnerability of their sector and the challenges of providing residential services without government funding. Submissions highlighted challenges with meeting existing standards, factors such as static Australian Government Pensions that limit available resources to provide a quality service, increases to the cost of living that are reducing service viability, and the high degree to which the NDIS underpins service viability.

As much as I did not want to become a NDIS provider myself, I felt like I was forced to. I had no other options. No other avenue opened to me as a residential service to actually provide a quality Level 3 service to people none, zero.³³²

The view that the sector has limited capacity to adapt without Queensland Government funding was highlighted by these stakeholders, with the majority of submissions from service providers seeking funding to address service viability and/or enable reform.³³³

The statistics provided by the department (and presented at Table 2, page 3 of this report) reflect the situation, with the number of level 3 providers in Queensland declining sharply since 2023.

The vulnerability of the sector is not unique to Queensland. The Disability Royal Commission observed a national trend: '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'.³³⁴

Yvonne Orley, Chair of SAPA, spoke to value of their services:

I think people from the outside looking at us think about our fees and charges being commiserate with mainstream. Of course our fees and charges cover the complexity of needs of our clients. We meet the

³²⁸ DHLGPPW, correspondence, 16 November 2023, attachment F, p 8.

³²⁹ SAPA, Public hearing transcript, Brisbane, 13 December 2024, p 23.

³³⁰ Submission 16, p 7.

³³¹ DHLGPPW, correspondence, 16 November 2023, attachment F, pp 27, 41.

³³² Submission 200.

³³³ Submissions 1, 30, 132, 143, 148, 152, 200; see also, DHLGPPW, correspondence dated 8 March 2024, p 5.

³³⁴ RC Report, Volume 7, p 580.

gap between other organisations because we have a 24-hour duty of care to our residents. We are looking to have appropriate funding to meet that. You are speaking about social needs, you are speaking about health needs. These people sometimes come to us and they have been badly neglected, and it is up to us to spend a lot of time getting them back up to scratch to be able to function well. There is a lot of unseen work that we do.

I think that also, speaking to Mr Bennett, our clients have a disability. They will always have that disability. You can do as much as you can to enhance their skills et cetera. They also have escalations. This person with schizophrenia may be okay today and not need as much care, but tomorrow they may be really having a problem. One of the other benefits of them being in supported accommodation is that we know them. We know when they have been triggered, when they are not themselves. We can pick up on that. The value in that is preventive and it helps a lot of them not to be in the hospital system.³³⁵

Q Shelter acknowledged the concerns of residential service providers that the current financial model is already unsustainable, and recommended a co-design process be engaged in to explore an improved model.³³⁶

8.2 Sustainability

The Queensland Human Rights Commission advised that under the HRA, public entities have obligations to act and make decisions compatibly with human rights and to give proper consideration to human rights when making decisions.³³⁷ Residential services are unlikely to meet the definition of a public entity under the HRA. However, a registered NDIS service provider is a public entity when performing functions of a public nature in Queensland.³³⁸

The QHRC recommended that consideration be given to whether residential services should be public entities under the HR Act, and if so, whether there should be funding for residential services to meet the obligations imposed by the HRA. Conversely, the QHRC suggested that, if the Queensland Government provides funding to residential services, consideration must be given to whether this will result in their meeting the definition of functional public entities and the support the Queensland Government will provide to assist them to meet their obligations under the HRA.³³⁹

Several service providers echoed this sentiment in reference to one of their greatest costs, staffing.

Tarampa Lodge and Tarampa Assist (Tarampa) noted financial constraints limit training opportunities. Tarampa said the increasing costs of training are ‘mammoth’, and suggested a possible solution would be for the Queensland Government ‘to fund Residential Services direct to appropriately train staff’.³⁴⁰

Skymac Pty Limited (trading as Avalon Village) submitted that ‘Proper funding allows for competitive salaries and training for staff in Supported Accommodation facilities. This, in turn, attracts a skilled workforce and reduces turnover’.³⁴¹

SAPA’s submission noted it had successfully obtained grants recently, which included funding to commission staff induction and training to support industry development.³⁴² SAPA also contended that staff working in level 3 residential services ‘have mandated training requirements that are higher than the NDIS’. In SAPA’s view, if it received funding, it could better staff facilities and provide training

³³⁵ SAPA, public hearing transcript, Brisbane, 13 December 2024, p 27.

³³⁶ Submission 127, pp 3-4.

³³⁷ HRA, s 58(1).

³³⁸ HRA, ss 9(2)(a), 9(5).

³³⁹ Submission 139, p 2.

³⁴⁰ Submission 122, p 9.

³⁴¹ Submission 143 n.p.

³⁴² Submission 1; the induction toolkit can be found at sapa.org.au/resources/residential-services-induction-toolkit/.

to staff members. SAPA contended that ‘The industry would benefit from funded training and development programs; however increasing the requirements is not feasible without funding’.³⁴³ SAPA advised, ‘From our direct perspective, increased funding to provide higher levels and higher trained staff onsite is something we would greatly appreciate’.³⁴⁴

The Uniting Church acknowledged SAPA’s advocacy for funding to support an increased level of training, staffing, and capital upgrades. In its view, however:

Any government funding directed to this issue should be towards alleviating the financial burden of vulnerable people who are currently required to subsidise [sic] private residential service operators, from the Disability Support Pension or similar. In effect, federal government funds (i.e. from income support payments like the Disability Support Pension, along with rent allowances) are paying for accommodation and support that is unsuitable and expensive.³⁴⁵

Committee comment

The committee recognises the difficulty in balancing the often complex support needs of residents, and the cost of delivering services with well-trained and competent staff.

The committee met service providers and staff who were skilled, compassionate, and dedicated to their work. We commend the valuable work that these people provide.

The committee notes the submissions from service providers, the QHRC and other submitters who spoke to the current threats to the sustainability of the residential services sector. The committee recognises the sustainability of the supported accommodation sector is under threat in the current economic environment, as indicated in submissions received by stakeholders and the shrinking number of registered residential services at level 3 accreditation. NDIS support is keeping many residential services viable, but it does not extend to all residents and all times of day and night.

Reform, in our view, would benefit from co-design with the Supported Accommodation Providers Association and key advocacy groups.

Recommendation 10

The committee encourages the Queensland Government to consider grant opportunities or funding incentives to attract, train and retain staff in the sector to better support service providers, encourage investment in the sector in regional and remote areas of Queensland, and equally important, ensure service standards are maintained to better align with human rights identified in the *Human Rights Act 2019*.

The committee recommends the Queensland Government consider the provision of funding for *personal services* provided by residential service providers, for people in level 3 accredited residential services who are not eligible for National Disability Insurance Scheme support but have complex support needs, disabilities, intellectual impairments, or are otherwise at risk of isolation.

³⁴³ Submission 1, n.p.

³⁴⁴ SAPA, public hearing, 13 December 2023, p 26.

³⁴⁵ Submission 138, p 16.

8.3 A case study: the 'set and forget investment'

The following case study is based on submissions received by the committee and publicly available information from the internet.

The committee received two submissions from family members of residents living in a level 3 facility in the Gold Coast region. Both submissions referred to a new owner/manager taking over at the end of 2023. The family members expressed concern over the declining quality of care and services, especially the meals, provided to residents since the change of ownership.³⁴⁶

In relation to the lack of services being offered at the accommodation since the takeover, the new owner admitted she had 4 hours training and no experience in the matter of running supported accommodation, disability, NDIS choice and control, human rights, administering medication, CPR, First Aid or Health and Safety.

Submission 12

The submissions spoke of the owner undertaking the delivery of most of the services by herself, at substandard level, to the detriment of the residents' health.

The owner has advised that she will not be advertising for staff on job advertising apps because she will then have to pay staff the award wage. This is concerning because I am wondering whether the owner will employ untrained paid help to assist in supporting the 15 to 19 vulnerable residents who reside at the property, or whether she will continue to work alone at the accommodation which I feel is placing the residents at risk of harm.

The residents look very unwell, pale in pallor and aren't eating the meals because they aren't edible. The residents look as though they have lost weight. A few of the cognitively able purchase take away food after meals times as they are still hungry, and I supply extra food so that my brother doesn't go hungry or become malnourished.

Submission 149

The new owner manages the property by herself and has no staff assisting with cooking, cleaning or any other tasks. [Name withheld] often asks the residents to assist with tasks around the house and will reward the residents that help out with chocolate bars.

My son physical and mental health is suffering. My son is hungry all the time and often has to go to the corner store to buy extra food to eat.

Submission 12

A search of real estate market websites revealed the property, consisting of two houses on two adjoining lots, was sold in February 2023 for \$1,838,000.³⁴⁷ Whilst on the market, a real estate company marketed the property with this description:

A rare opportunity to secure a long standing Level 3 assisted living facility on the Gold Coast.

The two detached properties with caretakers apartment offers comfortable accommodation for 19 residents in 16 rooms. The accreditation renewal was recently completed in October 2021 for a further 3 years.

The experienced onsite caretaker and support staff make this a set and forget investment. The property generates a secure income stream of approximately \$430,000 per annum (2021) with a net income in the order of \$240,000 per annum. The current residents are charged at 85% of their pension for their accommodation.³⁴⁸

³⁴⁶ Submissions 12, 149.

³⁴⁷ domain.com.au/property-profile/43-merloo-drive-nerang-qld-4211.

³⁴⁸ spaceproperty.com.au/listings/residential_sale-3171720-nerang/.

The committee received a submission from the owner and manager of the facility.³⁴⁹ The submission spoke to the difficulties experienced by service providers to find qualified staff, and for the business to stay viable.

The high cost of wages (particularly for Saturday, Sunday and Public Holidays) is substantial. The rents including food charged currently limit the level of services which can be delivered. The high expenditure of wages vs the income a provider received is out of balance. That means that supported accommodation provider is unable to survive. This means that the facility is unable to hire staff at the asking salary.

Quality come from the enough funding and resources. If the government would like to help the residents, please help the provider to survive. It is unrealistic if the government only want to improve but expect the facility to pay the cost.³⁵⁰

Committee comment

The committee is cognisant of the potential conflicts that arise when privately owned operators provide multi-faceted regulated services to vulnerable residents in a challenging economic environment. The committee is of the view that the Department of Housing, Local Government, Planning and Public Works should provide appropriate guidance and information to prospective investors considering entry into the sector.

³⁴⁹ Submission 152.

³⁵⁰ Submission 152.

9 Regulation and oversight: entanglement, overlap, and inefficiency

A common theme identified through the Inquiry was the complexity of the current regulatory environment. The current regulatory and legislative frameworks, as portrayed by the Public Advocate, are characterised by complexity, overlap, and entanglement—a situation that was intensified by the advent of the NDIS. In the Public Advocate’s view, this has led to ‘fragmented and disjointed safeguarding mechanisms’, ‘blurred lines of responsibility’, ‘potential conflicts of interest’, and a difficult to navigate bureaucracy spanning all levels of government.³⁵¹

Tables 4 and 5 below outline the overlapping government bodies and legislation currently regulating residential services.³⁵² This, according to the Public Advocate, amounts to ‘a confusing amalgam of regulatory bodies and requirements in this sector’.³⁵³

The OPG noted that, for its staff to navigate these systems, ‘they have to be really a jack-of-all trades, understanding Commonwealth- and state-based regulation, mental health, housing, general health, restricted practice and disability’.³⁵⁴ The OPG advised its office often relies on advocates, because ‘they really have that ability to be flexible on the ground and actually work across a multitude of issues’.³⁵⁵ Part of the difficulty, the OPG suggested, is that there is not a centralised point-of-contact to resolve issues, and as a result, this largely falls to the advocates:

Earlier, Dr Chesterman spoke about the need for that single point of assistance that might be akin to case management. I think that is because at the moment we know that a lot of services are funded for specific reasons. You might have an agency that can assist with a housing matter or an agency that can assist with a mental health matter—it is very siloed—whereas we find if the advocates are provided that generalist funding they can assist that person with all of those issues that intersect, because no-one ever has one standalone issue. We do find that very beneficial. We work closely with them.³⁵⁶

The Public Advocate contended that the regulatory environment was further complicated by the NDIS, which, in its interactions with residential services, ‘creates extraordinary regulatory complexity’ (see chapter 7 on the NDIS).³⁵⁷

As well as the complexity of the regulatory frameworks themselves, it was suggested that the existing systems are not being sufficiently enforced. Whether relating to costs and charges, service standards, the NDIS, providers’ organisational structures, or complaints management, there is concern there is insufficient oversight and compliance activity.³⁵⁸

The RC Report found the complex needs of residents in supported accommodation (and its interstate equivalents) are not being met. The Disability Royal Commission heard evidence that:

- residents do not have safe and clean accommodation, with some facilities appearing ‘squalid and unsafe’
- support needs are not being met
- residents have no choice about their mealtimes or medication times

³⁵¹ Public Advocate’s Report, pp 4, 9.

³⁵² The information in the diagram is derived from the Public Advocate’s Report, p 10.

³⁵³ Public Advocate, public hearing transcript, Brisbane, 13 December 2023, p 3.

³⁵⁴ OPG, public hearing transcript, Brisbane, 13 December 2023, p 14.

³⁵⁵ OPG, public hearing transcript, Brisbane, 13 December 2023, p 17.

³⁵⁶ OPG, public hearing transcript, Brisbane, 13 December 2023, p 17.

³⁵⁷ Public Advocate, public hearing transcript, Brisbane, 13 December 2023, p 2.

³⁵⁸ Public Advocate’s Report, pp 29, 31, 33-34, 38-39.

- staffing is inadequate for the residents' needs
- there are health and safety risks such as dangerous electrical wires or fire safety breaches.³⁵⁹

The RC Report included the following resident example to highlight the failings of current regulation and oversight:

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. 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. In 2021, a Victorian COVID 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.³⁶⁰

The Royal Commission heard evidence about gaps in the oversight of SRSs and recommended 'that all minimum standards should be reviewed and strengthened in each jurisdiction, noting that some jurisdictions may already meet some of these proposed standards'.³⁶¹

The Public Advocate posed 5 questions relating to regulatory standards, oversight, and compliance measures:³⁶²

Do current service standards set appropriate benchmarks for the provision of level 3 residential services, particularly in relation to personal care?

Should the assessment of whether level 3 residential services meet particular standards require more thorough evidence, including greater on-site monitoring and more direct engagement with residents and relevant representative agencies?

Should the residential services regulator be required to publicly report on the compliance of service providers with accreditation standards?

How can existing safeguards be improved to provide better protections for residents living in level 3 residential services?

Should a 'no wrong door' approach be established under which residents of level 3 residential services are assisted to lodge complaints about service provision across a range of service sectors, including the accommodation, NDIS, and aged care sectors?

³⁵⁹ RC Report, Volume 7, pp 579-80.

³⁶⁰ RC Report, Volume 7, p 580.

³⁶¹ RC Report, Volume 7, p 583.

³⁶² Public Advocate's Report, pp 11-12.

Table 4: overlap and the interaction between federal, state, and local government - Agencies

Safeguards	Food	Accommodation	Personal Care / Support Services	Complaints
<ul style="list-style-type: none"> • Coroners Court of Queensland • Residential Tenancies Authority • DHLGPPW • Aged Care Quality and Safety Commission 	<ul style="list-style-type: none"> • DHLGPPW • Local Government 	<ul style="list-style-type: none"> • Public Trustee of Queensland • Residential Tenancies Authority • DHLGPPW • Local Government • Office of the Public Guardian 	<ul style="list-style-type: none"> • NDIS • Aged Care Services • Veterans Affairs • National Injury Insurance Scheme 	<ul style="list-style-type: none"> • Residential Tenancies Authority • DHLGPPW • Aged Care Quality and Safety Commission • NDIS Quality and Safeguards Commission

Table 5: Regulatory overlap and the interaction between federal, state, and local government - Legislation

Safeguards	Food	Accommodation	Personal Care / Support Services	Complaints
<ul style="list-style-type: none"> • Coroners Act 2003 (Qld) • Residential Tenancies and Rooming Accommodation Act 2008 (Qld) • Residential Services (Accreditation) Act 2002 (Qld) • Aged Care Quality and Safety Commission Act 2018 (Cth) • National Disability Insurance Scheme Act 2013 (Cth) • Public Guardian Act 2014 (Qld) • Guardianship and Administration Act 2000 (Qld) 	<ul style="list-style-type: none"> • Residential Services (Accreditation) Act 2002 (Qld) • Building Act 1975 (Qld) • Food Act 2006 (Qld) • Food Standards Australia New Zealand Act 1991 (Cth) 	<ul style="list-style-type: none"> • Public Trustee Act 1978 (Qld) • Guardianship and Administration Act 2000 (Qld) • Residential Tenancies and Rooming Accommodation Act 2008 (Qld) • Residential Services (Accreditation) Act 2002 (Qld) • Building Act 1975 (Qld) • Food Act 2006 (Qld) • Food Standards Australia New Zealand Act 1991 (Cth) • Public Guardian Act 2014 (Qld) • Guardianship and Administration Act 2000 (Qld) 	<ul style="list-style-type: none"> • Residential Services (Accreditation) Act 2002 (Qld) • National Disability Insurance Scheme Act 2013 (Cth) • Aged Care Act 1997 (Cth) • Veterans Entitlements Act 1986 (Cth) • National Injury Insurance Scheme (Queensland) Act 2016 (Qld) 	<ul style="list-style-type: none"> • Residential Tenancies and Rooming Accommodation Act 2008 (Qld) • Residential Services (Accreditation) Act 2002 (Qld) • Aged Care Quality and Safety Commission Act 2018 (Cth) • National Disability Insurance Scheme Act 2013 (Cth) • Public Guardian Act 2014 (Qld) • Guardianship and Administration Act 2000 (Qld)

9.1 Department of Housing, Local Government, Planning and Public Works inspectors

Safeguarding and oversight are provided by the department. Section 2A of the RSA Act provides that departmental staff may be appointed as inspectors and granted the powers provided in the *Fair Trading Inspectors Act 2014* (FTI Act). Section 12 of the FTI Act empowers inspectors to investigate, monitor, and enforce. Powers provided by the Act include the power to:

- enter places (ss 23-31)
- search a place; inspect, examine or film any part of the place; and take a thing or a sample from the place, or anything at the place (s 38(a-c))
- seize evidence (ss 41-43)
- require production of document (s 57)
- Power to require information (s 41).³⁶³

9.1.1.1 Compliance

The department is responsible for conducting compliance activities associated with registered and unregistered services.³⁶⁴ It relies on complaints as ‘the most valuable source of intelligence’ for identifying non-compliance. Examples of the types of complaints received include:

- family members not being satisfied with the conduct of a service
- reports that a service is not meeting standards
- claims the food being provided is below standard
- fire safety concerns
- allegations that the residential service is operating without registration.³⁶⁵

Compliance activities include investigations, inspections, audits, and actions taken to improve service delivery through engagement and education. The department reviews complaints and assigns priority ratings of high, medium, or low.³⁶⁶ According to these ratings investigations are prioritised as follows:

High Risk complaints *must* be commenced immediately. This includes situations where there is a potentially serious risk to residents, there are concerns evidence may be being destroyed or lost, or there is a risk of reprisal action against the complainant.

Medium Risk complaints *should* be commenced. These complaints take precedence over routine matters the department has already received.

Low Risk complaints are processed as part of usual operations.³⁶⁷

When determining the priority rating, the department considers previous or other complaints, compliance history, and the seriousness and urgency of the allegation. The department advised, ‘Serious risk is defined as a situation that causes harm or illness, or has the potential to cause harm or illness to the health, safety or wellbeing of a person residing in a residential service. The department also considers whether the complaint is out of its jurisdiction, and should be referred (wholly or

³⁶³ See also DHLGPPW, correspondence, 16 November 2023, attachment F, p 48.

³⁶⁴ DHLGPPW, public briefing transcript, Brisbane, 27 November 2023, p 2.

³⁶⁵ DHLGPPW, correspondence, 16 November 2023, attachment F, p 18.

³⁶⁶ DHLGPPW, public briefing transcript, Brisbane, 27 November 2023, p 2.

³⁶⁷ DHLGPPW, correspondence, 16 November 2023, attachment F, p 19.

partially) to another government agency or authority, such as the Queensland Police Service, the Residential Tenancies Authority, the NDIS Quality and Safeguards Commission, or the OPG.³⁶⁸

In situations where legislated standards are not met, enforcement proceedings may occur. These include amending an accreditation by adding conditions, cancelling an accreditation, cancelling a registration, or implementing a quality improvement plan. When the department considers an operator is genuinely trying to adhere to their statutory obligations, it may instead attempt to educate and inform them about compliant practices.³⁶⁹

Enforcement options available under the RSA Act include:

- issuing official compliance notices (s 153)
- seeking an undertaking after contravention (ss 149-152)
- apply to the district court for an injunction to 'restrain a person from conducting a residential service (s 147)
- prosecutions.³⁷⁰

The department advised that in 2022-23 it conducted 203 investigations and responded to 278 inquiries.³⁷¹ The department provided the following compliance data for 2022-23:³⁷²

Table 6: Departmental compliance activities 2022-23

2022-23	Investigations	Warning notice	Quality Improvement Plans	Prosecutions
Unregistered	34	0	0	0
Level 1	47	15	2	0
Level 2	32	18	3	0
Level 3	90	8	2	0
Total	203	41	7	0

Since 2020, 4 successful prosecutions have been achieved. These related to the operation of unregistered residential services or providing false or misleading information. One prosecution related to an unaccredited and unregistered provider who provided personal care services to their residents.³⁷³

The department advised its residential services team comprises 5 investigators who work across the state to conduct visits and site audits. Site audits are scheduled for every 3 years. During these visits, staff members interact with residents as well as the provider, to determine whether standards are being met, and whether they have suitable access to external services.³⁷⁴

³⁶⁸ DHLGPPW, correspondence, 16 November 2023, attachment F, pp 19-20.

³⁶⁹ DHLGPPW, public briefing transcript, Brisbane, 27 November 2023, p 2.

³⁷⁰ DHLGPPW, correspondence, 16 November 2023, attachment F, p 20.

³⁷¹ DHLGPPW, public briefing transcript, Brisbane, 27 November 2023, p 2.

³⁷² DHLGPPW, correspondence, 16 November 2023, attachment F, p 18.

³⁷³ DHLGPPW, public briefing transcript, Brisbane, 27 November 2023, p 3.

³⁷⁴ DHLGPPW, public briefing transcript, Brisbane, 27 November 2023, p 3.

9.1.1.2 Conditions on Accreditation

DHLGPPW may place conditions on an accreditation where an inspector identifies that accreditation standards or compliance requirements have not been met.³⁷⁵ Section 47 of the RSA Act provides that:

- (5) The chief executive may grant accreditation on conditions the chief executive considers appropriate, including, for example, a condition requiring—
 - (a) that the service provider prepare, and give to the chief executive within a stated time of not less than 30 days, a quality improvement plan dealing with stated aspects of the residential service; or
 - (b) that the service provider complete a stated training program within a stated time; or
 - (c) that the service provider ensure that a stated associate of the service provider completes a stated training program within a stated time; or
 - (d) that the service provider take, or refrain from taking, stated actions in the provision of the services to which the accreditation relates; or
 - (e) that the service provider ensure that a stated associate of the service provider takes, or refrains from taking, stated actions in the provision of the services to which the accreditation relates.

Accreditation conditions must be detailed on an accreditation certificate, which must be displayed on the premises somewhere it is likely residents will see it. The department will monitor the accreditation through phone calls, emails, photographs, and/or site inspections to ensure the conditions are satisfied by their due date.³⁷⁶

9.1.1.3 Quality improvement plans

As seen above, s 47(5)(a) provides that the chief executive may utilise a quality improvement plan. Section 47(7) defines a quality improvement plan as ‘a plan, containing steps to be taken over the period for which the service is currently accredited, for improving particular aspects of the service’.

Departmental inspectors may request a quality improvement plan for a residential service that requires improvements if it is to maintain its accreditation. The department advised a plan might include, for example, preventative maintenance works, or the staged introduction of compliant security measures. It will remain in place until the end of an accreditation period. A quality improvement plan is not enforceable under legislation; instead, it ‘provides documented recognition of areas for improvement and encourages self-assessment and progress monitoring’.³⁷⁷

9.1.1.4 Cancellation of registration or accreditation

If an inspector identifies an immediate and/or high risk to the safety of residents, or if a provider has repeatedly failed to respond to requests to rectify a matter, the department may commence proceedings to cancel a residential service’s registration and/or accreditation.

Section 15 of the RSA Act provides that the chief executive may cancel a residential service’s registration if satisfied—

- (aa) the registration of the residential service, (or the registration under section 61 of a person as a service provider for the registered service, was obtained because of materially incorrect or misleading information; or
- (a) the service provider or an associate of the service provider is not a suitable person; or
- (b) the registered premises do not comply with the prescribed building requirements; or

³⁷⁵ See also DHLGPPW, correspondence, 16 November 2023, attachment 1, p 21.

³⁷⁶ DHLGPPW, correspondence, 16 November 2023, attachment F, pp 21-22.

³⁷⁷ DHLGPPW, correspondence, 16 November 2023, attachment F, p 22.

- (c) there is no fire safety management plan for the registered premises; or
- (d) the service is not being conducted and has not been conducted for at least 3 months.

Similarly, section 57 of the RSA Act provides for the cancellation of an accreditation if—

- (a) the accreditation was obtained because of incorrect or misleading information and, based on the correct information, the chief executive would not grant the accreditation; or
- (b) the service provider has contravened a residential services Act, or an undertaking given by the service provider under part 9, division 2, in a way, or to an extent, that justifies the cancellation; or
- (c) the cancellation is appropriate having regard to a change involving the service provider, an associate of the service provider or the registered premises; or
- (d) for level 2 or 3 accreditation—the service provider has stopped providing the service to which the accreditation relates and it is at least 1 month since the day of cessation; or
- (e) for another reason, having regard to the accreditation criteria, the accreditation should be cancelled.

A service provider may provide a written response to the department stating why it considers the registration or accreditation should not be cancelled. Service providers are allowed at least 30 days to submit their response for registration, and at least 28 days for accreditation. The department advised cancellation decisions are taken very seriously, and that the likely outcomes for residents are an important consideration. The department said in such cases it ‘responds with housing solutions for the impacted individuals’.³⁷⁸

The department stated it conducts ‘Proactive compliance programs’. These activities ‘identify systemic potential non-compliance with any number of accreditation standards across a representative proportion/sample of registered residential services’. To determine high-risk performers, the department considers the following indicators:

- compliance history
- the number of requests for extensions to the due date for renewal of accreditation
- number of complaints received by the department
- amendment to an accreditation as a result of non-compliance
- conditions imposed on accreditation standards to meet compliance requirements.³⁷⁹

9.2 Office of the Public Guardian - Community Visitor Program

One of the primary oversight mechanisms for residential services is provided by the OPG. As set out in the *Public Guardian Act 2014* (PG Act), the OPG facilitates a Community Visitor Program. Community visitors, as defined at s 40(1), attend visitable sites for the purpose of protecting the rights and interests of clients staying at those sites. Section 41 of the PG Act sets out the inquiry and complaint functions of community visitors, allowing them to visit sites, conduct inquiries, manage complaints, and report to the Public Guardian. Section 41(2) of the PG Act determines the scope of inquiries, which may relate to:

- the adequacy, appropriateness, and standard of services
- the extent to which consumers receive supports in a way that is least restrictive of their rights
- the adequacy of information provided to consumers

³⁷⁸ DHLGPPW, correspondence, 16 November 2023, attachment F, p 23.

³⁷⁹ DHLGPPW, correspondence, 16 November 2023, attachment F, p 24.

- the accessibility and effectiveness of complaints procedures within the site
- any other matter (at the request of the Public Guardian).

Section 41(3) of the PG Act outlines community visitors' complaints function. It provides that they can:

- make inquiries into, and seek to resolve, complaints
- identify suitable entities to investigate or resolve complaints, and make timely and appropriate referrals
- refer any other matter in relation to a complaint to the NDIS commissioner if the community visitor considers the NDIS commissioner has functions in relation to the matter.

Section 42(1) of the PG Act mandates that community visitors 'must regularly visit the visitable site to perform the visitor's functions'. It does not define 'regularly'; however, the OPG advised that community visitors are scheduled to visit level 3 residential services every 6 months. When the OPG identifies issues that require more frequent visits, they are scheduled every 3 months. In 2022-23 the OPG made 129 visits to level 3 facilities. At the time of the public hearing in December 2023, the OPG advised it had 20 sites on a six-monthly visit schedule, and 13 on a three-monthly schedule. Unscheduled visits may also be made following a request made on a client's behalf, for example, from another adult or an advocacy group.³⁸⁰

The OPG reported the following issues raised during community visits in level 3 residential services from 1 January to 22 November 2023:

- wellbeing (34 issues) – access to leisure, recreation and community access, family support, staffing issues, personal clothing and effects, and respect for privacy
- accommodation (33 issues) – fire safety, quality of the accommodation, tenancy agreements, and storage of food
- support (33 issues) – access to funds to cover costs of living and personal essentials, access to formal and informal decision makers and advocates, personal care and hygiene, and individual support plans
- health (15 issues) – administration and storage of medication, availability of medical history, monitoring of health care needs, staff training, and first aid procedures
- least restrictive services (14 issues) – unauthorised use of restrictive practices, compliance with positive behaviour support plans, and documentation and management of finances
- assessment (13 issues) – access to assessments by specialists, assessment of capacity, professional behavioural assessment, aids and equipment, and risk assessments
- treatment (11 issues) – medication and treatment plans, access to psychologists and social workers, and monitoring of these plans
- accessibility (2 issues) – access and awareness of support available to lodge complaints.³⁸¹

The OPG is funded for approximately 60 full-time equivalent staff, and around 100 community visitors in Queensland. In addition to level 3 residential services, these employees visit over 10,000 children and young people. They also visit adults with impaired decision-making who live in other settings.³⁸²

The OPG estimated it has guardianship of 150 residents living in levels 1, 2, and 3 residential services, and that it represents approximately 10 per cent of the total number of level 3 residents. The

³⁸⁰ OPG, public hearing transcript, Brisbane, 13 December 2023, p 13.

³⁸¹ Submission 195, p 2.

³⁸² OPG, public hearing transcript, Brisbane, 13 December 2023, p 15.

appointment of the Public Guardian is considered a measure of last resort, so it is possible many more residents might have family members appointed as their formal guardian.³⁸³

The Community Visitor Program, the OPG clarified, provides a degree of oversight but is not the regulator: 'Community visitors are a point-in-time check and balance that the services being delivered to residents are appropriate'.³⁸⁴ The OPG noted that the department is responsible for safeguarding and oversight through its monitoring and compliance functions. Community visitors speak with residents, and where there are concerns, will refer an issue to the appropriate agency to resolve it. They are not deeply involved in compliance activities, nor are they usually involved in improvement planning.³⁸⁵

9.3 NDIS Quality and Safeguards Commission and Aged Care Commission

Complaints can be lodged to the NDIS Quality and Safeguards Commission in relation to NDIS supports. The NDIS Commission:

- responds to concerns, complaints and reportable incidents, including abuse and neglect of NDIS participants
- promotes the NDIS principles of choice and control, and works to empower participants to exercise their rights to access quality services as informed, protected consumers
- requires NDIS providers to uphold participants' rights to be free from harm
- registers and regulates NDIS providers and oversees the new NDIS Code of Conduct and NDIS Practice Standards
- provides guidance and best practice information to NDIS providers on how to comply with their registration responsibilities
- monitors compliance against the NDIS Code of Conduct and NDIS Practice Standards, including undertaking investigations and taking enforcement action
- monitors the use of restrictive practices within the NDIS with the aim of reducing and eliminating such practices
- is working in collaboration with states and territories to design and implement nationally consistent NDIS worker screening
- focuses on education, capacity building and development for people with disability, NDIS providers and workers
- facilitates information sharing with the National Disability Insurance Agency (NDIA), state and territory authorities and other Commonwealth regulatory bodies.³⁸⁶

Similarly, those in the Aged Care system have oversight from the Aged Care Quality and Safety Commission (Aged Care Commission). The Aged Care Commission is engaged to:

- build confidence and trust in aged care
- empower people who use aged care
- support providers to understand and comply with their obligations and responsibilities
- promote best-practice care and services.

And it is responsible for:

³⁸³ OPG, public hearing transcript, Brisbane, 13 December 2023, p 15.

³⁸⁴ OPG, public hearing transcript, Brisbane, 13 December 2023, p 15.

³⁸⁵ OPG, public hearing transcript, Brisbane, 13 December 2023, p 14.

³⁸⁶ NDIS Commission, *What we do*, 17 October 2023, ndiscommission.gov.au/about/what-we-do.

- resolving complaints about services
- approving providers to deliver aged care services
- administering the Serious Incidents Response Scheme
- reducing the use of restrictive practices
- accrediting and monitoring aged care services
- monitoring and assessing providers' compliance with the Aged Care Quality Standards and other obligations
- conducting home care investigations to assess compliance.³⁸⁷

These Commissions provide oversight of services received under their respective systems. They do not have direct oversight over the residential services themselves.

9.4 Complaints and fear of reprisal

The Public Advocate's report noted individuals living at a residential service may be reluctant to pursue complaints about their living arrangements, or the delivery of services, for fear of reprisal.

QAI's submission stated the following about complaints processes:

Making complaints is also very challenging in an environment where a resident has little control over their day-to-day lives and when residents with intellectual or psychosocial disability tend to be perceived as less competent and therefore not likely to be believed. To assume that residents 'can leave if they want to' is to misrepresent the reality of the current housing crisis where there are few, if any, genuine alternatives.

Even if robust complaints handling processes exist, there can be a fear of retribution from residential service providers which could lead to a loss of support and/or accommodation. Given the power imbalance between residential service providers and residents, and the limited informal support that a resident might have, complaint mechanisms are insufficient to ensure good quality service provision.³⁸⁸

Notably, section 173 of the RSA Act prohibits reprisals, mandating that:

- (1) A person must not cause, or attempt or conspire to cause, detriment to another person in retaliation because, or in the belief that—
 - (a) anybody has made, or may make, a complaint to the chief executive about the conduct of a residential service; or
 - (b) anybody has given, or may give, information to the chief executive about the conduct of a residential service; or
 - (c) anybody has provided information about an alleged offence against this Act to a person for the purpose of having the alleged offence investigated or prosecuted; or
 - (d) anybody has given, or may give, evidence to a court in proceedings for an offence against this Act.
- (2) An attempt to cause detriment includes an attempt to induce a person to cause detriment.

Despite this prohibition, evidence received from the advocates who assisted residents during the Inquiry attested that many residents do not feel safe lodging complaints. 'It was common', advised QAI, 'to hear people say that they were too scared to make a submission for fear of losing the roof over their heads'.³⁸⁹

³⁸⁷ Aged Care Quality and Safety Commission, *Our role*, agedcarequality.gov.au/about-us/our-vision.

³⁸⁸ Submission 128, p 13.

³⁸⁹ QAI, public hearing transcript, Brisbane, 23 February 2024, p 1.

One resident said, 'They [the residents] are not allowed to say stuff. They live in fear of eviction every day'.³⁹⁰ Another parent submitted that her son had been pressured to sign documents agreeing to have all of his personal and confidential information shared with the owner: 'My son told me that he signed the document because he was scared that he would be made to leave if he didn't'.³⁹¹

Aged and Disability Advocacy Australia (ADA) reported that complaints management and dispute resolution are often difficult and are sometimes inaccessible to residents. This, coupled with a poorly understood decision-making framework, 'contributes to an environment in which the rights and choices of a resident or potential resident are unnecessarily limited'.³⁹²

Committee comment

The committee recognises that often vulnerable people living in residential services may struggle to navigate the complex complaints and regulatory systems in place. We endorse the concept of a 'no wrong door' approach for residents living in residential services to ensure residents are assisted to lodge complaints across all involved service sectors, such as the accommodation, NDIS, and aged care sectors.

9.5 The need for regulation, resourcing, oversight, and enforcement

The Public Advocate identified that:

- a) the current regulation for level 3 residential services is insufficient for ensuring all residents receive quality services
- b) the standards that do exist are insufficiently monitored.³⁹³

For example, stakeholders raised food and meal services. They noted that regulation relating to food services focuses on hygiene standards, but there is little regulatory consideration to the quality of food choices, and residents do not have a say on when they eat, or what they eat. The Public Advocate's Report acknowledged there is a best practice healthy eating guide, but that 'it is not clear how this is assessed during audits and in situations where complaints are made about these issues'.³⁹⁴

In correspondence from the department, several audit tools were forwarded for the committee's consideration.³⁹⁵ DHLGPPW noted that the Site Audit Tool 'is not an exhaustive list of the types of evidence that an Inspector can take into consideration when developing their recommendations'. As noted above (4.3.5), Inspectors 'endeavour' to interview 10 per cent of residents during a site audit, and to sight at least 10 per cent of resident records.³⁹⁶

With regard to the regulation of the sector, the Coroners Court of Queensland determined:

Standards are provided for the accreditation and assessment processes in accordance with regulatory requirements, however the Panel determined that there appears to be a tick and flick approach to these assessments, with consensus among all members that while current standards are based on regulation, there was a need for them to be tightened.

³⁹⁰ Submission 162, p 1.

³⁹¹ Submission 149, p 1.

³⁹² Submission 133, p 3.

³⁹³ Public Advocate's Report, p 31.

³⁹⁴ Public Advocate's Report, p 31.

³⁹⁵ DHLGPPW, correspondence, 16 November 2023, attachments.

³⁹⁶ DHLGPPW, correspondence, 16 November 2023, attachment F, pp 25, 31.

For example, while there is a standard for how services and support should be provided, there is not one prescribed way of achieving this. Consequently, there were inconsistencies in the interpretation of the standards even within the nine facilities that were reviewed.³⁹⁷

The Public Advocate acknowledged that minimal accreditation requirements and a lack of regulation have led to great variability in standards between facilities.³⁹⁸

QDN observed they raise concerns to Community Visitors after receiving feedback from residents, 'yet there does not seem to be a great take-up of issues'. QDN suggested the agencies appointed to provide safeguards and a degree of protection 'often are not there', and 'may need to re-look at how they provide those services'.³⁹⁹

Residential service providers also observed the limitations of the current oversight system. The Supported Accommodation Providers Association (SAPA) acknowledged the diligence and professionalism of the community visitors but said 'they are under-resourced in comparison to regulators in other sectors'.⁴⁰⁰ Of the regulatory arrangements, SAPA said:

It is typically on a reactionary basis due to complaints. It is typically on a three-year accreditation cycle, but most providers do not have regular ongoing interaction with the regulator. I would comment that, over the last two years, they have significantly made inroads into improving their communication into the sector, but I think there is a long way to go to providing ongoing training and support, and a regulatory approach that is not compliance driven. It is seen too much by our providers and our members as compliance driven, so therefore they do not want to engage because they fear any time someone walks in the door, they are just going to get a stick whacked over them or something.⁴⁰¹

The OPG stated it was critical that a regulator be sufficiently resourced and include robust monitoring and compliance powers for proactively monitoring level 3 residential services so as to avoid the need for corrective actions once incidents have occurred:

A robust regulator with visibility into providers and their services ensures that standards are consistently implemented and can foster a culture of enhanced compliance. It ensures oversight agencies, that often only become aware of a problem after it has occurred, are not required [to] fill the safeguarding gaps of the primary regulator and can focus on advocating and promoting service improvements on behalf of individual residents.⁴⁰²

Lee Reynolds, General Manager of Avalon Village, asserted there is sufficient regulation in the industry already, but there is no enforcement. Mr Reynolds told the committee that the bodies that exist need to be stronger and should 'do more policing action', and stated:

The regulatory bodies are already in there. The acts are already in place; they are just not being adhered to. Someone needs to be a stronger police force to ensure those are done. The good operators do the right thing. We have a brand. We have a business to run et cetera, but there is enough regulation in there. It is just that they are not being policed enough.⁴⁰³

³⁹⁷ Coroners Report, p 18; Public Advocate's Report, p 31.

³⁹⁸ Public Advocate's Report, p 30.

³⁹⁹ QDN, public hearing transcript, Brisbane, 23 February 2024, p 6.

⁴⁰⁰ SAPA, public hearing transcript, Brisbane, 13 December 2023, p 24.

⁴⁰¹ SAPA, public hearing transcript, Brisbane, 13 December 2023, p 24.

⁴⁰² Submission 195, p 3.

⁴⁰³ Lee Reynolds, General Manager, Skymac Pty Ltd (trading as Avalon Village), public hearing transcript, Brisbane, 23 February 2024, p 30.

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

The Disability Royal Commission recommended that minimum standards for SRS and their equivalents should be reviewed and strengthened.⁴⁰⁴ In the RC Report, the Royal Commission made the following recommendation about regulatory standards and oversight:

**Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
Final report, Volume 7, *Inclusive education, employment and housing*, September 2023
p 588.**

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.

⁴⁰⁴ RC Report, Volume 7, p 583.

- 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.

The RC Report stated support plans should, at a minimum, address personal care, medication management, financial management, use of restrictive practices, and standards relating to the food being provided. Support plans should articulate how the services being provided by the proprietor are distinct from services or supports funded through an NDIS plan.⁴⁰⁵

Notably, the RC Report highlighted a need for regular auditing to ensure minimum standards are being met. These audits, it said, should be conducted when a provider seeks registration, and at least once yearly thereafter. Audits 'should be undertaken centrally by the responsible state or territory department' and should focus 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.⁴⁰⁶

The RC Report stressed it is important for jurisdictions to detail the compliance actions they will take in response to certain findings during audits and investigations. Compliance and enforcement actions should be clearly articulated, consistently applied, and they should adequately respond to any breaches in the minimum standards.⁴⁰⁷

Regarding community visitor programs, the RC report noted that such programs rely upon staff being adequately authorised to investigate all relevant providers: 'For community visitors to play this role, their remit must extend to the relevant service systems. This is not always the case'.⁴⁰⁸

The RC Report expanded on its recommendation to close regulatory gaps, stating a need for a 'cohesive regulatory framework' to support people with disability who receive their supports/services in a level 3 residential service. The current national regulatory frameworks are complex, and responsibilities are shared between different bodies; thus, there is no single body to provide oversight. Recommendations from the report include:

- regulatory bodies should be empowered to effectively enforce minimum standards
- up-to-date and centrally maintained records should be kept, detailing any infringements, enforcement actions, and their remedies
- other oversight bodies and the NDIS should be alerted following substantiated infringements.⁴⁰⁹

⁴⁰⁵ RC Report, Volume 7, p 584.

⁴⁰⁶ RC Report, Volume 7, p 586.

⁴⁰⁷ RC Report, Volume 7, p 587.

⁴⁰⁸ RC Report, Volume 7, p 587.

⁴⁰⁹ RC Report, Volume 7, p 587.

9.5.2 The Public Advocate's priority: person-centred regulation

In correspondence from the Public Advocate, he articulated one priority that related specifically to regulation and oversight of residential services.

The Public Advocate said the current regulatory approach in supported accommodation is focussed on the services a facility provides rather than the services residents are receiving. Following the advent of the NDIS, he argued, shifting to person-centred regulation has become paramount. The current approach does not capture useful data relating to NDIS supports, nor does it meaningfully monitor intake processes, residents' support needs, service system navigation, nor the regulation of restrictive practices.⁴¹⁰ He wrote:

I define person-centred regulation as regulation of the adequacy of the services received by an individual. So the focus is on whether the person is receiving adequate services to meet their support needs. This differs from facility-based regulation, which focusses on the regulation of services provided by a facility.

A new approach should draw on expertise that exists not only in the Department of Housing but other departmental expertise, especially in the field of human services such as exists in the Department of Child Safety, Seniors and Disability Services. A new approach should incorporate elements of the current Human Services Quality Framework (version 8.1, December 2022), which contains a number of relevant standards that could be drawn upon to provide a more joined-up and person-centred approach to supported accommodation regulation. For instance, one standard, under the heading 'Responding to Individual Need', holds that: the 'needs of the individual are being appropriately addressed and responded to'.⁴¹¹

Such a model, proposed the Public Advocate, might involve more frequent onsite assessments of the services being provided, which would allow residents' views to be routinely collected.⁴¹² At the public hearing, the Public Advocate called for greater emphasis on on-site assessment. This would involve onsite visits guided by key principles, and having the residents speak with assessors about their views.⁴¹³

The below recommendations from the Public Advocate's submission were provided for the committee to consider adopting in this report, and speak to the establishment of a regulator with a person-centred regulatory approach:

Recommendation 5:

That the Queensland Government should establish a new supported accommodation regulator which should have the primary roles of:

- regulating existing level 2 and level 3 residential services (and any new comparable category of residential service); and
- monitoring, in collaboration with relevant state and federal regulatory agencies, the adequacy of support services received by residential services residents, including support services provided through the National Disability Insurance Scheme.⁴¹⁴

Recommendation 6:

The Queensland Government should require the supported accommodation regulator to adopt a person-centred regulatory approach. This approach should concentrate on the adequacy of the services being received by residents and should be developed through engagement with relevant legislative and quality

⁴¹⁰ The Public Advocate, correspondence, 18 December 2023, attachment, pp 2-3.

⁴¹¹ The Public Advocate, correspondence, 18 December 2023, attachment, p 3.

⁴¹² The Public Advocate, correspondence, 18 December 2023, attachment, p 3.

⁴¹³ Public Advocate, public hearing transcript, Brisbane, 13 December 2023, pp 6-7.

⁴¹⁴ Submission 16, pp 2-3.

assurance standards, including the *Human Rights Act 2019* (Qld), the Human Services Quality Framework and the United Nations *Convention on the Rights of Persons with Disabilities*.

The person-centred regulatory approach should:

- ensure that residents are receiving adequate support services;
- require routine onsite assessment of the services provided utilising a human services quality framework based approach;
- involve robust collection of the views of residents about the services they are receiving; and
- implement Recommendation 7.38 from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and require supported accommodation providers to: ‘develop support plans for each resident, covering personal care, financial management, medication management, and the use of restrictive practices’; and ‘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’.

Committee Comment

The committee is concerned that issues of substandard service come to the attention of the Department of Housing, Local Government, Planning and Public Works via irregular spot inspections, or indirectly, via reports from advocates, from submitters, and more recently, from the committee’s site visits and evidence received during the course of the committee’s Inquiry.

The committee recognises the need for significant reform in the regulation of supported accommodation and sees benefit in the implementation of a ‘person-centred’ approach to regulation. We endorse recommendations 5 and 6 from the Public Advocate’s submission, and support the call for a new supported accommodation regulator.

The *Human Services Quality Framework* provides guidance on quality standards, service delivery pathways, assessment processes, and a continuous improvement framework to improve the quality of human services. This existing document reflects contemporary attitudes and service delivery standards and is translatable to the residential services sector.

Recommendation 7.38 from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability sets out numerous recommendations for setting minimum standards in residential services and improving the monitoring and oversight frameworks.

In the committee’s view, reforms to the regulation of residential services, particularly level 3 services, should incorporate a ‘person-centred’ approach that:

- reflects contemporary values and expectations
- is informed by the *Human Services Quality Framework*
- is informed by the findings of the Royal Commission (particularly Recommendation 7.38).

The committee stresses that a framework is only as robust as its ongoing delivery. With a reported 5 fulltime equivalent departmental inspectors investigating complaints and providing site audits across Queensland, regulation of the sector seems to be dramatically under-resourced, and it is little surprise the committee has heard the policing of regulatory standards is often perfunctory, ‘tick-and-flick’, or altogether absent. We are of the view that strong reform will require responsive and commensurate oversight, and the Queensland Government should commit to both.

Recommendation 11

The committee recommends the Department of Housing, Local Government, Planning and Public Works prioritise reform of the regulation, compliance and oversight framework of residential services in Queensland. The committee recommends the new framework incorporate a 'person-centred' approach that reflects contemporary values and expectations including the *Human Rights Act 2019*, the *Human Services Quality Framework* and also the United Nations' *Convention on the Rights of Persons with Disabilities*, and be guided by recommendations from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, particularly Recommendation 7.38.

Recommendation 12

The committee recommends the Department of Housing, Local Government, Planning and Public Works develop a well-trained and well-resourced compliance team to oversee regulatory activities, pro-actively conduct site visits, and ensure residential service providers are given information and support to maintain standards of service provision.

10 Alternative models of service provision

10.1 Transitional accommodation

The committee visited two housing services that provide short to medium term accommodation for people who have experienced homelessness or are at risk of homelessness. Both services provide support services to residents to assist and prepare them for independent living within the community. Neither service was registered as a residential service under the RSA Act.

Centennial Lodge is run by the Salvation Army as part of their Cairns Supported Accommodation Services. Centennial Lodge provides crisis and emergency accommodation for men, women, and women with children. Currently there are 33 guests at the property: 10 women and 23 men. People experiencing or at risk of homelessness are eligible to stay. There are some rooms that cater to people with mobility needs.⁴¹⁵

Mission Australia operates Woree House, in Cairns, as transitional housing facility for people who are homeless or rough sleeping. Woree House provides residents with individualised case management to help transition from chronic homelessness to living independently in the community.⁴¹⁶ The facility is available for up to 20 residents aged 18 and over, for up to 18 months.⁴¹⁷ Residents have self-contained studio apartments and pay for rent under a tenancy agreement and their electricity. Entry into the property is restricted, with swipe card access for residents and sign-in requirements for visitors. There are common areas in the property for all residents, including a barbeque area and shed equipped with tools and building supplies for residents to use. Woree House staff assist residents to prepare shared meals, for example a roast or a barbeque, once a week.

10.2 Supported housing provision

The department advised that, as well as regulating the residential services sector under the RSA Act, it also delivers or supports *supported housing*, also known as *supportive housing*, to vulnerable people in Queensland.

The department described *supported housing* as the provision of support to people living in private or social housing settings where support is guaranteed for the term of the tenancy and is provided to residents on location, and the support would not necessarily follow the resident if they move to other housing.⁴¹⁸ Supported housing may include high-density single sites, integrated models with existing social and affordable housing, or scattered sites utilising public housing or private rental properties.⁴¹⁹ Supported housing differs from residential services provided under the RSA Act in its purpose and delivery, including:

- provision of permanent or long-term housing
- no shared living spaces, although there are shared common areas, so that tenants live in a self-contained unit with their own kitchen, bathroom and laundry
- a multidisciplinary team of tenancy managers and support providers available to work with the tenant to sustain the tenancy.⁴²⁰

⁴¹⁵ The Salvation Army, *Centennial Lodge*, salvationarmy.org.au/centenniallodge/.

⁴¹⁶ Mission Australia, *Woree Supported Housing Accommodation*, missionaustralia.com.au/servicedirectory/211-homelessness/woree-supported-housing-accommodation.

⁴¹⁷ Mission Australia, *Woree Supported Housing Accommodation*.

⁴¹⁸ DHLGPPW, correspondence, 16 November 2023, attachment F, p 41.

⁴¹⁹ Submission 130, p 4.

⁴²⁰ Submission 130, p 5.

Support can be provided on-site and off-site, for example:

- on-site services that provide case management support to people within a housing complex or single building with workers based in the same building
- off-site services that provide case management support to people within a housing complex or single building by workers who are not based in the same building.⁴²¹

10.2.1.1 Common Ground

Common Ground Queensland is a not-for-profit organisation established in 2008. It is a registered community housing provider under the National Regulatory System for Community Housing, providing supported housing primarily to people experiencing or at risk of homelessness.⁴²²

Common Ground Queensland established Brisbane Common Ground, a purpose-built supportive housing building in South Brisbane, utilising the Common Ground (now known as Breaking Ground) model that originated in the United States.⁴²³

During the public hearing on 23 February 2024, Ms Sue Pope, Chief Executive Officer of Common Ground Queensland described the service and delivery model:

Firstly, it has a housing-first approach. That means there is no requirement to prepare people or make them ready for housing; rather, people come straight into housing from homelessness situations, including rough sleeping. The housing we provide is permanent, secure and affordable housing. It includes onsite support services. Health care and supports are embedded into the housing and they are designed to be flexible to meet the individual needs of the tenants within that housing environment. It also includes specialist tenancy management with a tenancy manager who is focused on supporting the tenant and working closely with the support services to sustain the tenancy for as long as that is possible. The separation between those two functions, the tenancy management and the onsite support services, is incredibly important. Separation between those two functions enables the support service to also play an individual advocacy role for the tenant.⁴²⁴

Brisbane Common Ground was opened in 2012 and consists of 146 residential units (135 studio and 11 one-bedroom units), commercial premises, space for onsite service delivery and meeting facilities for hire. Tenants are predominantly single adults, with limited capacity to house couples. Families with children are not permitted. Approximately 50 per cent of tenants have experienced homelessness, and 50 per cent are tenants with low to moderate income. Brisbane Common Ground provides 24/7 concierge services.

Micah Projects, a not-for-profit organisation, provides specialised support services to Brisbane Common Ground's tenants, including property and tenancy management services.⁴²⁵

Common Ground Queensland provided a snapshot of the 146 tenants in Brisbane Common Ground as at February 2024:

- 90-100 per cent of tenants receive support from Micah Projects
- 24 per cent have an NDIS package
- 18 per cent have an acquired brain injury or cognitive or intellectual disability
- 12 per cent have other disability.⁴²⁶

⁴²¹ DHLGPPW, correspondence, 16 November 2023, attachment F, p 42.

⁴²² Common Ground, *About us*, commongroundqld.org.au/about-us/.

⁴²³ Submission 130, p 4; Breaking Ground, United States, *Who we are*, breakingground.org/who-we-are/.

⁴²⁴ S Pope, CEO, Common Ground Queensland, public briefing 23 February 2024, p 25.

⁴²⁵ Common Ground, *About us*.

⁴²⁶ Submission 130, p 5.

Common Ground Queensland also provides supported housing in scattered models in the Brisbane region to approximately 20 families with children.⁴²⁷

Common Ground Queensland recommended the Queensland Government enable more supported housing, not only as part of the response to the current housing shortage but also as a solution for people currently in residential services who are not receiving the support and care they require.⁴²⁸

Micah Projects cautioned that while the supported housing model improved housing stability and quality of life for many vulnerable people, there will remain a need for the residential service model for some people in the community, for example those who are:

- unable to establish or maintain standard tenancies (in private, public and community housing)
- if in a single tenancy, who may struggle to access services and become socially isolated
- needing an initial tenancy when exiting institutional settings and hospitals, where clients would either have to remain in the institution/hospital or would become homeless.⁴²⁹

10.3 Supported accommodation in Australian jurisdictions

As in Queensland, supported residential services operate privately in New South Wales, Victoria, South Australia and Tasmania. Across jurisdictions, however, the service delivery frameworks vary greatly in terms of accommodation standards, regulation, and ensuring compliance. The committee considered the provision of supported accommodation services, or the equivalent to Queensland's residential services as defined under the RSA Act, in these Australian states and territories.

10.3.1 New South Wales

Assisted boarding houses in New South Wales (NSW) are regulated under the *Boarding Houses Act 2012* (NSW) and the *Boarding Houses Regulation 2013* (NSW). The Act stipulates that boarding houses have a maximum cap of 30 residents and if they provide assistance to residents they must be licensed. The NSW Department of Communities and Justice (DCJ) administers the boarding house legislation. The committee was advised that, as at April 2024, there were 19 assisted boarding houses with a combined total of 293 licenced beds.⁴³⁰

Schedule 1 of the *Boarding Houses Regulation 2013* (NSW) provides further detail on conditions required for licensing Assisted Boarding Houses. These include staffing levels (at least one staff present at all times and with qualifications to attend to a first aid emergency), room requirements (minimum size and sleeping arrangements), habitation standards, provision of services, support with health issues and requirements for medication management.⁴³¹

Compliance officers from the DCJ Assisted Boarding Houses Team inspect Assisted Boarding Houses every six weeks, through alternative scheduled and unscheduled visits. The purpose of the inspections is to ensure each Assisted Boarding House is meeting its obligations under the Act and Regulations, and to identify any apparent or emerging compliance issues.⁴³²

⁴²⁷ Submission 130.

⁴²⁸ Submission 130, p 7.

⁴²⁹ Submission 192.

⁴³⁰ Hon R Jackson, MLC, Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast (NSW), correspondence, dated 8 April 2024, p 1.

⁴³¹ Schedule 1 - Standards for authorised boarding houses, *Boarding Houses Regulation 2013* (NSW).

⁴³² Hon R Jackson, MLC, correspondence, dated 8 April 2024, p 2.

The responsible Minister, Hon Rose Jackson MLC, advised the committee that licensed Assisted Boarding Houses in NSW meet most of the components of the RS Report's Recommendation 7.38. However, the requirement in Recommendation 7.38 to develop and maintain support plans of the services provided to a resident is not addressed in the Act currently and requires further consultation with stakeholders. The Minister advised that 'work is still underway in NSW in developing a new Shared Accommodation Bill'.⁴³³

10.3.2 Victoria

The Victorian Department of Families, Fairness and Housing (DFFH) administers the provision of SRS under the *Supported Residential Services (Private Proprietors) Act 2010* (Vic). The Human Services Regulator within the DFFH administers and monitors compliance with the current legislative requirements. The Human Services Regulator has a monitoring and enforcement program in place, where services are routinely inspected and non-compliance is addressed in line with the Human Services Regulator's compliance and enforcement approach.⁴³⁴

The objective of the current regulatory framework is to protect the safety and wellbeing of residents living in SRS. The Act and associated regulations set out the principles and minimum standards for accommodation and personal support that all supported residential services must meet. The *Accommodation and Personal Support Standards* include standards relating to lifestyle, food and nutrition, health and wellbeing, and the physical environment.⁴³⁵

Supported residential services are privately operated facilities providing accommodation for people with daily support needs within a 1:30 staffing model.⁴³⁶ Currently, the Human Services Regulator undertakes a census of supported residential services and an SRS Resident Experience Survey every five years. The 2018 census indicated that as at August 2018, there were 128 supported residential services providing 4,399 beds in Victoria. The 2023 census of supported residential services is expected to be published in approximately late May 2024.⁴³⁷ The DFFH advised the committee that the number of occupants is unknown, however as at 25 March 2024, there were 110 SRS facilities.

On 1 July 2024, a new social services regulatory scheme under the *Social Services Regulation Act 2021* (Vic) will commence.⁴³⁸ The new scheme will apply to a range of social services including SRS, replacing the current requirements. The new scheme is underpinned by a requirement for providers to be registered and to comply with new social service standards that support the safe delivery of services, with a focus on protecting service users from harm, neglect and abuse.

Notably, the new scheme establishes an independent Social Services Regulator to replace the Human Services Regulator from 1 July 2024. According to the DFFH, it is intended that the functions of the Disability Services Commissioner will also be merged into the Social Services Regulator in mid-2024, subject to legislation being passed by the Victorian Parliament.⁴³⁹

⁴³³ Hon R Jackson, MLC, correspondence dated 8 April 2024, p 2.

⁴³⁴ Victorian Government, *Human services regulator*, dffh.vic.gov.au/human-services-regulator.

⁴³⁵ Victorian Government, Department of Families, Fairness and Housing, correspondence dated 17 May 2024, p 2.

⁴³⁶ Section 34, *Supported Residential Services (Private Proprietors) Regulations 2012* (Vic).

⁴³⁷ Victorian Government, Department of Families, Fairness and Housing, correspondence dated 17 May 2024, p 3.

⁴³⁸ Victorian Parliament passed the *Social Services Regulation Act 2021* (Vic) on 16 September 2021.

⁴³⁹ Victorian Government, *Social services regulation reform*, dffh.vic.gov.au/social-services-regulation-reform.

10.3.3 South Australia

The Department of Human Services (DHS) in South Australia is responsible for supported residential facilities under the *Supported Residential Facilities Act 1992 (SA)* (SRF Act). Unlike other service models in Australian jurisdictions, local council authorities in South Australia deliver regulatory services over the sector, including enforcing the requirements of the Act and licencing supported residential facilities within their local area.⁴⁴⁰

Section 9(2) of the SRF Act allows a council to delegate its powers and functions under the SRF Act. The Eastern Health Authority has been delegated functions under the Act by 4 local government authorities for five SRFs within the boundaries of:

- City of Burnside
- Campbelltown City Council
- City of Norwood, Payneham and St Peters
- City of Prospect.

The City of Port Adelaide Enfield is responsible for six SRFs, more than any other local authority. Three regional SRFs are located in Victor Harbor, Mount Gambier and Port Pirie.

Supported residential facilities in South Australia are privately owned, regulated under the Act and the Supported Residential Facilities Regulations 2009 to provide accommodation and personal care to people who require low-level assistance and personal care services. These facilities do not receive government subsidies, and most licensed providers are also registered providers under the NDIS. The SRF Act is applicable to all shared accommodation with personal supports, however exemptions (for those providing Supported Independent Living and Specialist Disability Accommodation) have meant only a small proportion of this sector is regulated.

The Supported Residential Facilities Regulations 2009 sets the standards of care covering the following aspects: privacy dignity and respect, personal hygiene, nutrition, mobility, activities, medication, and notification of certain events, for example, if there is any significant deterioration of residents' health or well-being.

The South Australian Civil and Administrative Tribunal is enabled by the SRF Act to review certain decisions made under the Act by a licensing authority, including granting or refusing a licence, imposing conditions on a licence, determining a dispute between a resident and the proprietor of a facility, and issuing a default notice for failure to comply with the Act.⁴⁴¹

The DHS advised the committee that a consultation and roundtable process for reform of the SRF Act was undertaken in 2023. Consultation with key stakeholders on the development of new legislation to replace the SRF Act is continuing.⁴⁴²

⁴⁴⁰ Section 9, *Supported Residential Facilities 1992 (SA)*.

⁴⁴¹ South Australian Civil and Administrative Tribunal, *Supported residential facilities*, sacat.sa.gov.au/case-type/ROG/a-z-list-of-decisions-we-can-review/supported-residential-facilities.

⁴⁴² Department of Human Services, South Australia, correspondence dated 4 April 2024.

10.3.4 Tasmania

The Tasmanian Government delivers supported accommodation services through Homes Tasmania and the *Homes Tasmania Act 2022* (Tas). Homes Tasmania leases properties to non-government organisations (NGOs) to provide supported accommodation programs. To be eligible, an NGO must be a not-for-profit incorporated entity, registered organisation, corporation or registered charity.⁴⁴³

Properties are leased to NGOs to accommodate people with specific needs, including people who:

- are homeless or at risk of homelessness
- are unable to maintain a tenancy in their own right
- require high-level personal or living support that isn't provided in social housing or private accommodation, such as people living with disability, people affected by mental illness, and children and young people who are at risk.⁴⁴⁴

The Tasmanian Government's *Tasmanian Housing Strategy: Action Plan 2023-2027* identifies four future priority areas and accompanying actions, including the delivery of more homes, and more support to people in need. In regard to people with disability, the Action Plan commits to 'an additional 2,000 social homes by 2027, including more accessible homes that meet gold liveability standards for people living with disability', and 'developing a plan for the future of specialist disability accommodation in the Homes Tasmania portfolio for people with extreme functional impairment and very high needs'.⁴⁴⁵

Committee comment

The committee recognises the current challenges experienced by stakeholders in the supported residential services sector are not unique to Queensland. The committee notes that each service model in Victoria, New South Wales, South Australia and Tasmania have features worthy of consideration when designing a new model of service delivery for Queensland, including:

- regular census and survey of the sector
- strong compliance mechanisms built into the legislative framework
- an independent regulatory entity.

⁴⁴³ Homes Tasmania, *Supported accommodation program*, homestasmania.com.au/engage/Information-for-Partners/supportedaccommodation.

⁴⁴⁴ Homes Tasmania, *Supported accommodation program*, homestasmania.com.au/engage/Information-for-Partners/supportedaccommodation.

⁴⁴⁵ Homes Tasmania, *Action plan 2023-2027*, November 2023, homestasmania.com.au/__data/assets/pdf_file/0027/276930/Housing_Tasmania_Strategy_Action_Plan_2023-2027.pdf, accessed 27 May 2024.

Appendix A – Terms of reference from the Legislative Assembly

That the Community Support and Services Committee inquire into and report to the Legislative Assembly by 22 March 2024 on the provision and regulation of supported accommodation in Queensland, considering:

1. residential services as defined under the Residential Services (Accreditation) Act 2002 and other shared living arrangements, including but not limited to:
 - (a) appropriateness of standards and their enforcement;
 - (b) provision of support services funded by the NDIS;
 - (c) provision of accommodation and support services to Queenslanders in this variety of settings, including if the current service delivery model by which level 3 residential services are provided is appropriate or alternative model/s that should be adopted and what role the NDIS should play in supporting these models;
 - (d) sustainability of proposed model/s, market constraints and potential impact on other government systems;
 - (e) resident wellbeing, including the differing needs of vulnerable population groups, and adequacy of current service delivery, quality and safeguards and oversight arrangements in place across all levels of government;
 - (f) the complex state and federal regulatory arrangements that apply.
2. the Public Advocate's report '*Safe, secure and affordable*'?: *the need for an inquiry into supported accommodation in Queensland*, its two overarching and 29 detailed questions;
3. the views of residents and former residents, with a formal role for two independent non-government organisations to support residents to contribute their views on their services and support; and
4. the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and the Independent Review of the NDIS reports as appropriate.

Appendix B – The Public Advocate’s 29 Questions for committee consideration

The level 3 residential services model

1. Is the current model by which level 3 residential services are provided – which typically sees private providers delivering accommodation and support services at the cost of a majority of a resident’s Disability Support Pension – an appropriate one for Queensland into the future?
2. Should new models of service delivery that meet the needs of particular cohorts of residents (e.g. residents with significant mental health concerns or with significant drug and alcohol use) be trialled?

Costs and charges

3. Are current charges for level 3 residential services reasonable?
 - a) Do they enable residents to have sufficient disposable income to ensure a reasonable quality of life?
 - b) Do they enable providers to deliver quality services on a financially viable basis?
 - c) Should a cap be placed on the amount that residents are able to be charged?
4. Should greater transparency be required of level 3 residential service providers concerning the fees charged for accommodation, food, and personal care services?

Service standards

5. Do current service standards set appropriate benchmarks for the provision of level 3 residential services, particularly in relation to personal care?
6. Should the assessment of whether level 3 residential services meet particular standards require more thorough evidence, including greater on-site monitoring and more direct engagement with residents and relevant representative agencies?
7. Should the residential services regulator be required to publicly report on the compliance of service providers with accreditation standards?

Staff

8. Are current minimum qualification and training requirements for staff of level 3 residential services appropriate?
9. How might greater assistance be provided to level 3 residential services to manage difficult scenarios, including those that occur outside business hours?

Conflicts of interest and transparency

10. Further to question 4, should greater transparency be required concerning the fees that are charged to residents when their level 3 residential service provider, or a closely related entity, also provides them with NDIS-funded services?
11. When a level 3 residential service resident chooses their accommodation provider, or a closely related entity, as their NDIS service provider, what evidence should the service provider be required to provide to demonstrate that the resident has exercised an independent choice?
12. Is the monitoring of NDIS-funded services provided to residents of level 3 residential services adequate?

Oversight and safeguards

13. How can existing safeguards be improved to provide better protections for residents living in level 3 residential services?

Promoting skills and independence

14. Are there unintended consequences from the participation of residents of level 3 residential services in the NDIS that warrant regulatory reforms?

Complaints mechanisms

15. Should a 'no wrong door' approach be established under which residents of level 3 residential services are assisted to lodge complaints about service provision across a range of service sectors, including the accommodation, NDIS, and aged care sectors?

Rooming agreements

16. Do current regulatory requirements concerning rooming agreements adequately protect the rights of residents of level 3 residential services?

Informal safeguards and capacity building

17. What additional steps should be taken to ensure that residents of level 3 residential services understand and are able to exercise their rights?
18. How can the voice of residents become more central to the regulation of level 3 residential services?

The suitability of personal care services

19. Should a standardised intake assessment process be developed and implemented for potential residents of level 3 residential services to ensure that their accommodation and support needs will be able to be met in this setting?
20. How might the service and support needs of residents of level 3 residential services be reliably and regularly assessed?

Access to funding

21. Should greater assistance be provided to residents of level 3 residential services who need to navigate and engage with multiple service systems (including in the fields of housing, NDIS, aged care, mental health, alcohol and other drugs, and the justice system)?

External service providers

22. What changes are required to ensure that residents of level 3 residential services are able to access external services, including advocacy services?

Unregistered residential services

23. How might unregistered services that meet the current level 3 residential services criteria, and that are therefore required to obtain registration and accreditation, be more reliably identified?

Emerging, unregulated models of accommodation

24. What regulatory steps should be taken to better protect residents of level 3 residential services from predatory provider behaviour?

Decision-making

25. How might residents, and potential residents, of level 3 residential services be better supported to make their own accommodation and service-related decisions?

Zero tolerance policies

26. Has the adoption of 'zero tolerance' policies by some level 3 residential service providers had unintended consequences that require a regulatory response?

Restrictive practices

27. How should the use of restrictive practices in level 3 residential services be minimised and more effectively regulated?

Emergency and disaster planning

28. Are current disaster planning measures adequate across level 3 residential services?

Pathways out of level 3 residential services

29. How might residents of level 3 residential services be assisted to develop skills that will enable them to move into other accommodation settings, where this is their preference?

Appendix C – List of witnesses at public briefings and hearings

PUBLIC BRIEFINGS

27 November 2023, Brisbane

Department of Housing, Local Government, Planning and Public Works

- Kirstine Harvie, Acting Deputy Director-General, Policy Performance and First Nations
- Karl Frank, Executive Director, Regulatory Services
- Terence Green, Acting Director, Regulatory Services
- Chantal Raine, Acting Deputy Director-General, Housing and Homelessness Services
- Ngaio Toombes, Director Strategic Analysis Strategy and Policy Services
- Wayne Bolton, Manager Regulatory Operations

29 April 2024, Brisbane

Department of Housing, Local Government, Planning and Public Works

- Danielle McAllister, Deputy Director-General
- Kirstine Harvie, General Manager
- Mary Crearie, Executive Director
- Karl Frank, Executive Director
- Terry Green, Acting Director
- Ngaio Toombes, Director

PUBLIC HEARINGS

13 December 2023, Brisbane

The Public Advocate, Queensland

- Dr John Chesterman, Public Advocate
- Tracey Martell, Manager

The Public Trustee of Queensland

- Jody Currie, Director Regional Services Central
- Elaine Sommers, Acting Principal Advisor, Governance / Disability Support Officer

Office of the Public Guardian

- Shayna Smith, Public Guardian and Chief Executive Officer

Residential Tenancies Authority

- Kristin Spruce, Acting Chief Financial Officer
- Katherine Moller, Manager Strategy and Government Relations
- Sam Galer, Principal Project Officer, HLA

Supported Accommodation Providers Association (SAPA)

- Yvonne Orley, Chair
- Nathan Johnson, Vice Chair
- Tanya Sherlock, Committee member

23 February 2024, Brisbane

Queensland Advocacy for Inclusion

- Matilda Alexander, Chief Executive Officer
- Sophie Wiggans, Systems Advocate
- Vinay Veerabhadra, Senior Solicitor

Queenslanders with Disability Network

- Michelle Moss, Chief Executive Officer
- Paige Armstrong, Consultant
- Alison Maclean, Consultant

Queensland Council of Social Service (QCOSS)

- Ryan O’Leary – Manager, Community Engagement
- Bronwen Kippen, Campaign Coordinator, Housing

Q Shelter

- Fiona Caniglia, Executive Director

Tenants Queensland

- Penny Carr, Chief Executive Officer

Carers Queensland Australia

- Sarah Walbank, Manager, Quality and Assurance

Micah Projects

- Karyn Walsh, Chief Executive Officer

Common Ground Queensland

- Sue Pope, Chief Executive Officer

Skymac Pty Limited (trading as Avalon Village)

- Lee Reynolds, General Manager

19 February 2024, Cairns

Rights in Action

- Raoul Wilson, General Manager

ARC Disability Services

- Natasha Rivett, Chief Services Officer

Private Capacity

- Wayne Maitland

20 February 2024, Townsville

Townsville City Council

- Jenny Hill, Mayor
- Jonte Verwey, Advisor

Salvation Army

- Aaron Pimlott, Manager, Homelessness

Private Capacity

- Beverley Burns

Appendix D – Submitters

Sub #	Submitter
1	Supported Accommodation Providers Association (SAPA)
2	Confidential
3	Confidential
4	Resident (submitted by Queensland Advocacy for Inclusion)
5	Townsville City Council
6	Resident (submitted by Queensland Advocacy for Inclusion)
7	Name Withheld
8	Paul Crampton
9	Confidential
10	Confidential
11	Name Withheld
12	Ann Darcy
13	Confidential
14	Resident (submitted by Queensland Advocacy for Inclusion)
15	Confidential
16	The Public Advocate
17	Name Withheld (submitted by Community Assist)
18	Confidential
19	Confidential
20	Confidential
21	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
22	Confidential
23	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
24	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
25	Confidential
26	Confidential
27	Confidential
28	Confidential
29	Resident (submitted by Queenslanders with Disability Network)
30	Sunnycove Maroochydore
31	Resident (submitted by Queenslanders with Disability Network)
32	Confidential
33	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
34	Confidential
35	Confidential
36	Confidential
37	Confidential
38	Confidential
39	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
40	Confidential
41	Confidential
42	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
43	Confidential
44	Confidential
45	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
46	Resident (submitted by Queenslanders with Disability Network)
47	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
48	Confidential

49 Confidential
50 Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
51 Confidential
52 Confidential
53 Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
54 Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
55 Confidential
56 Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
57 Confidential
58 Confidential
59 Confidential
60 Confidential
61 Confidential
62 Confidential
63 Resident (submitted by Queensland Advocacy for Inclusion)
64 Confidential
65 Confidential
66 Confidential
67 Confidential
68 Confidential
69 Resident (submitted by Queenslanders with Disability Network)
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100	Confidential
101	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
102	Confidential
103	Confidential
104	Confidential
105	Confidential
106	Confidential
107	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
108	Confidential
109	Confidential
110	Confidential
111	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
112	Confidential
113	Confidential
114	Confidential
115	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
116	Confidential
117	Confidential
118	Supported Accommodation Providers Association (SAPA) - Supplementary submission 13 December 2023
119	Supported Accommodation Providers Association (SAPA) - Supplementary submission 2 February 2024
120	Confidential
121	Residential Tenancies Association
122	Tarampa Lodge and Tarampa Assist
123	Queensland Mental Health Commission
124	Confidential
125	Resident (submitted by Queensland Advocacy for Inclusion)
126	Summer Foundation
127	Q Shelter
128	Queensland Advocacy for Inclusion
129	Confidential
130	Common Ground Queensland
131	Table Eight
132	Christine Court Assisted Living
133	ADA Australia
134	WWILD Sexual Violence Prevention Association Inc
135	Confidential
136	Confidential
137	Queensland Council of Social Service Ltd (QCOSS)
138	The Uniting Church in Australia, Queensland Synod
139	Queensland Human Rights Commission
140	Burdekin Shire Council
141	Confidential
142	Carers Queensland
143	Skymac Pty Limited (trading as Avalon Village)
144	The Queensland Public Trustee
145	Queensland Independent Disability Advocacy Network (QIDAN)
146	DVConnect
147	Confidential
148	38KPR

149	Name Withheld
150	Confidential
151	Resident (submitted by Queensland Advocacy for Inclusion)
152	Paradise Accommodation
153	Confidential
154	Confidential
155	Confidential
156	Confidential
157	Confidential
158	Confidential
159	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
160	Confidential
161	Confidential
162	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
163	Confidential
164	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
165	Confidential
166	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
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168	Confidential
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170	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
171	Confidential
172	Confidential
173	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
174	Confidential
175	Confidential
176	Confidential
177	Confidential
178	Resident (submitted by Queenslanders with Disability Network)
179	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
180	Confidential
181	Confidential
182	Resident (Transcript of Audio file) - submitted by Queenslanders with Disability Network
183	Resident (submitted by Queensland Advocacy for Inclusion)
184	Confidential
185	Confidential
186	Confidential
187	Resident (submitted by Queensland Advocacy for Inclusion)
188	Resident (submitted by Queensland Advocacy for Inclusion)
189	Confidential
190	Resident (submitted by Queensland Advocacy for Inclusion)
191	Confidential
192	Micah Projects
193	Resident (submitted by Queensland Advocacy for Inclusion)
194	Resident (submitted by Queensland Advocacy for Inclusion)
195	Office of the Public Guardian
196	Tenants Queensland
197	Queenslanders with Disability Network
198	Confidential
199	Resident

- 200 Name Withheld (Transcript of Audio file)
- 201 Mental Health Lived Experience Peak Queensland

Statements of Reservation



MICHAEL BERKMAN MP

Member for Maiwar ▲

06 June 2024

Statement of Reservation - CSSC Report No. 44

Inquiry into the provision and regulation of supported accommodation in Queensland

I want to make clear at the outset that I have no reservations about the content and direction of the Committee's Report No. 44 (the Report) as a whole. I believe it presents a sincere, considered, constructive view on the often dire circumstances faced by supported accommodation residents in Queensland, and will hopefully represent an important step in the long-term project of deinstitutionalisation, and towards universally appropriate and dignified accommodation and support for people with a disability in Queensland.

For the most part, I take no issue with the Committee's comments throughout the report and the final recommendations the Committee presents to the Government - all have merit and reflect what the CSSC saw and the evidence submitted. I do, however, think that in some instances the comments should have been reflected in explicit recommendations, and the recommendations should have gone further to more fully represent the clear need for better resourcing of some supports, and the breadth and complexity of the pending legislative review and any reform proposals.

For example, there can be no real doubt that additional state funding is necessary to address the myriad issues identified with supported accommodation in Queensland. Funding is clearly required for individual independent assessment of new residents' housing and support needs, ongoing case management, and personal care services where residents aren't eligible for NDIS support. Rather than recommending that this funding be merely considered (as per recommendations 8 and 10), the Committee has seen ample evidence to directly recommend that such fundamental measures must be funded immediately, and that independent advocates (like QAI and QDN) be appropriately resourced to oversee (or at least monitor) their provision. In circumstances where the Federal Government is working to actively limit further expansion of the NDIS, the state is abrogating its responsibility to countless disabled people as long as it fails to do so.

It was welcome news to learn that the Government has already committed the Department to review the RSA Act, ostensibly in response to Action 18 of the *Housing and Homelessness Action Plan 2021-2025*. Moreover, I support the Committee's recommendations to the extent that they provide explicit guidance on the issues that the Department should prioritise in conducting this review (see recommendations 2, 5 and 11). However, I don't believe that a legislative review of this significance and complexity should be done by the very Department responsible for its administration - rather, the review should be conducted by an independent third party or parties.

While I don't question the intentions or the capability of our public service to deliver a review of the RSA Act, there is an inherent risk of political interference in such a review, especially in light of the substantial cost involved in a meaningful reform of the regulatory framework and the overriding fiscal constraint imposed on our public service. This is especially the case where successive State Governments, for

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decades now, have been unwilling to follow through with a program of genuine redistributive justice that puts the needs of Queensland's most vulnerable people ahead of the interests of our largest, most powerful corporate actors, such as those in the resource, banking and development sectors.

In my view, the Committee should have recommended that the review be undertaken by an independent body, such as the Queensland Law Reform Commission, in consultation with the Queensland Human Rights Commission and the Public Advocate, and other key sector advocates, including SAPA, QDN and QAI. There are many excellent recommendations detailed in submissions from these and other stakeholders that could (and arguably should) have been directly adopted by the Committee. At very least, these submitter recommendations must be taken into account and adopted to the greatest extent possible in the subsequent legislative review.

I appreciate the genuinely collaborative approach of all Committee members over the last 6 months. And finally, the inquiry simply wouldn't have been possible without the assistance of the teams at QAI and QDN, or the tireless work of the Committee Secretariat staff, Lynda Pretty, Andrew Lilley, and Kerri Swaine - we're eternally grateful to you all.



Michael Berkman MP



Inquiry into the provision and regulation of supported accommodation in Queensland LNP STATEMENT OF RESERVATION

The LNP members of the Committee throughout this inquiry were concerned about many aspects of the Supported Accommodation sector and Government's lack of support.

The committee report in section 7 National Disability Insurance Scheme (NDIS) covers extensively the issues encountered including the committee's deliberations into the current regulatory and legal environment involving residents many living in residential care. What was completely unexpected was the arrogance and disregard to the committee's work with both the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission both unwilling to participate into this important inquiry.

Of most concern was for the residents, residents that are vulnerable, have in many cases complex needs, without the support to live anywhere but in Supported Accommodation.

The sustainability of the sector, with increasing obligations but without significant government support will more than likely see further shutting down of facilities and a reduction in available beds leaving many residents without a home.

Residents in supported accommodation in Queensland

Residential services provide a vital community setting for people with diverse intellectual and physical disabilities or other issues, who need support in their accommodation.¹

Supported Accommodation providers are predominately private providers of accommodation who in the absence of Government alternatives have for decades been the providers of accommodation for vulnerable Queenslanders at no cost to Government.

The supported accommodation providers provide a crucial role by filling the gap between hospital and independent community accommodation, the committee was privileged to witness the sector providing a vital role in providing safety and dignity in affordable housing to many of Queensland's most vulnerable residents.

The peak body for services providers, Supported Accommodation Providers Association (SAPA), advised the committee:

Our industry is tasked with caring for some of the most vulnerable in our community. It is faced with unprecedented strains. The complexity of those being referred to us is increasing by the day. We face spiralling costs, no government funding and regulatory complexities which I think has been demonstrated by some of the earlier witnesses

¹ Submissions 122, 132, 134, 143.

today. Together, this threatens our viability and the safety and security of our residents and our workforce.²

Imagine, if you will, the complex lives of some of those in our care. They confront myriad adversities from mental health conditions, disabilities and discrimination, navigating a world that fails to understand their need. When they are unfunded and unsupported, these challenges reverberate through our facilities, risking the safety of co-residents and put excessive strain on our staff. Our providers simply do not have the option to knock off at 5pm, or hang up the phone because a resident's behaviour breaches our workplace policy. For many individuals with challenging behaviours, we are their place of last resort.³

Viability of the residential services sector

The committee heard from many Supported Accommodation providers about viability and many examples of providers running their operation at a loss, and it is feared with the recent closure of facility in Toowoomba,⁴ more closures could be a reality.

The committee did receive examples of the pressures on the industry, as identified by SAPA, including;

- Facilities becoming a dumping ground for hospitals and NGO's for individuals with complex mental health issues and insufficient supports.
- Provider burnout – over stretched and have insufficient resources to efficiently look after complex residents.
- Effective cap on revenue as rents charged are linked to Disability Support Pension (DSP)
 - Services provided are linked to the revenue that facilities can generate
 - No government support of funding.
- Increasing cost pressures (wages, property, food and other supplies) growing faster than rents (linked to DSP)
- Increasingly complex and overlapping regulatory and legislative frameworks, at all levels of Government.
- Inability to find primary health care providers – a lack of GPs servicing health needs.
- Increasing society expectations on care and accommodation delivery models
- Aging facilities in need of capital works programs.⁵

The submission from Tarampa Lodge, a family run service provider in a rural setting west of Ipswich stated:

Viability of the Service is waning and government funding direct to Tarampa is required to continue to maintain the high level of care and support we currently provide. If support services were split from accommodation and funds directed to external providers, Tarampa's future would be in doubt.⁶

SAPA stated:

² Nathan Johnson, SAPA, public hearing transcript, Brisbane, 13 December 2023, p 23.

³ Nathan Johnson, SAPA, public hearing transcript, Brisbane, 13 December 2023, p 23.

⁴ Care home to close down, *Ipswich News Today*, 17 May 2024.

⁵ Submission 1, p 8,

⁶ Submission 122.

We are at a crossroads where the status quo is no longer sustainable. However, SAPA stands here today not only to highlight the problems but also to propose constructive, actionable solutions. With the right support from government, we firmly believe that we can create a better tomorrow, a future where the quality of life of our residents is significantly improved and the burden on government resources is lessened. Our proposals aim at enhancing the care and support we provide while reducing the overall cost to the taxpayer.⁷

Further, SAPA outlined the inherent problem with the current framework of the sector:

We can only provide support commensurate to the income that we can derive which is based off rents.⁸

Noting the urgent need voiced by SAPA, the Queensland Synod of the United Church submitted the following cautionary advice:

Any government funding directed to this issue should be towards alleviating the financial burden of vulnerable people who are currently required to subsidise private residential service operators, from the Disability Support Pension or similar. In effect, federal government funds (i.e. from income support payments like the Disability Support Pension, along with rent allowances) are paying for accommodation and support that is unsuitable and expensive.⁹

Alternative models of care

SAPA proposed improved models of care, as follows:

Moreover, our proposal for two improved models of care, including the introduction of level 4 facilities, can help bridge the gap between clinical settings and supported accommodation. This would not only facilitate earlier hospital discharge but also serve as a preventative measure to keep those facing declining mental health out of hospitals.¹⁰

SAPA advocates that CSSC should look at an additional model of care, a Step up / step down facility (Level 4). This facility is envisaged to be semi-clinical and act as:

- A point for earlier discharge from hospital
- A diversion facility to keep those with declining mental health out of hospital.¹¹

An example of a different model of housing that provides residents with access to additional support yet does not replicate institutional forms of living is the Common Ground Queensland community housing initiative. Common Ground Queensland is a community housing provider that provides supportive housing to people who are chronically homeless and affordable housing to people on low incomes.¹²

Micah Projects, who provide homelessness services in Queensland and provide support services to tenants at Brisbane Common Ground Supportive Housing, submitted that despite the many advantages of the Common Ground model, residential services remain necessary,

⁷ Nathan Johnson, SAPA, public hearing transcript, Brisbane, 13 December 2023, p 23.

⁸ Nathan Johnson, SAPA, public hearing transcript, Brisbane, 13 December 2023, p 25.

⁹ Submission 138.

¹⁰ Nathan Johnson, SAPA, public hearing transcript, Brisbane, 13 December 2023, p 24.

¹¹ Submission 1, n.p.

¹² Submission 128, 130.

and that ideally, tenancy services and support services should be delivered by separate providers.

Micah Projects calls on the Queensland Government to implement the recommendations of the Public Advocate's report, including stronger regulation and oversight, minimum standards of care, and increased social housing options. With collaboration between government, providers and advocates like Micah Projects, we can ensure supported accommodation empowers residents, upholds their rights, and enables them to transition to more independent living where possible.¹³

The Public Advocate called for greater investment by the Queensland Government. Dr Chesterman stated:

Support here could involve a range of activities; from the purchase of entire sites (and engagement of contracted service support agencies), through to support for capital works on existing structures (that would, for instance, enable residents to have their own bedrooms and bathrooms).

In developing the investment program, the Queensland Government should also consider the range of planning concessions, taxation relief, and other supports that could be, or are currently being, provided to level 3 residential services.¹⁴

This was supported by Q Shelter, who stated:

Q Shelter calls for higher building and service delivery standards enforced through regulatory reforms, increasing available housing options with support so that people have genuine choices, and embedding the voices of people with lived experience in all future reforms underpinned by genuine support to participate.¹⁵

QCOSS made this broad statement in relation to reform:

The intent of the reform must be to deliver a regulatory framework that fosters the creation of inclusive housing for Queenslanders who require affordable housing that is secure and safe and enables people to maintain their wellbeing and achieve their goals.¹⁶

The committee heard that the sector recognises the need to improve the models of care and accommodation. The sector is ready, willing, and able but lacks resources. We support the calls from the sector for the Government to jointly develop and fund a new model of care and accommodation to give those most vulnerable Queenslanders their best chance of living quality lives in an environment of their choosing.



Stephen Bennett



Mark Robinson

¹³ Submission 192.

¹⁴ Submission 16.

¹⁵ Submission 127.

¹⁶ Submission 137.