



Action for More Independence & Dignity in Accommodation

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Advocacy, Self Advocacy, Rights, Accessibility, & Community Living for People with a Disability

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The Hon. Martin Foley

Minister for Disability

Level 22/50 Lonsdale St

Melbourne VIC 3000

Via email – martin.foley@parliament.vic.gov.au; minister.foley@dhhs.vic.gov.au

Dear Mr Foley MP,

AMIDA wishes to provide urgent feedback regarding the Disability Service Safeguards Bill 2018 (Vic) which is to be read tomorrow in Parliament. We have two concerns.

AMIDA is an independent advocacy organisation which advocates for good housing for people with disability. We provide advocacy to individuals, with priority given to people with an intellectual disability, and advocate for change in systems which prevent people from achieving good housing.

The first concern

AMIDA refers to s498N of the Bill which discusses the Duties of Specialist Disability Accommodation (SDA) residents and we have identified an error. The term “knowingly and intentionally” is utilised in the explanatory memorandum which states:

“New s498N outlines the duties of SDA residents and is modelled on section 59 of the Disability Act, requiring SDA residents to maintain the SDA enrolled dwelling in a manner that does not give rise to hazards; notify the SDA provider of damage to the SDA enrolled dwelling; contribute to the cost of repairs

where the SDA resident has knowingly or intentionally caused damage; and pay rent as agreed in the SDA residency agreement.”

However the word “knowingly” is missing from the Bill in s498N and related sections. The Bill refers to “has intentionally damaged or destroyed any part of the SDA enrolled dwelling.” This omission repeats throughout the Bill for example s498ZV relating to issue of notice of temporary relocation and s498ZX which outlines the circumstances in which as SDA provide may give an SDA resident notice to vacate.

The relevance of the difference is because the term relates particularly to a participant’s capacity to understand their actions and consequence of their actions. It is a term highly relevant to people with a disability, especially intellectual. Sometimes people with a disability can make an inappropriate response that causes damage to property without realising the consequence of their actions and should not be held responsible. In that situation they have intent but no knowledge. Certainly under the old Act they were not held responsible and were protected from liability. And according to the Memorandum, the same protections were to be carried over. But the Act does not do that. A person with a disability lacking awareness of the consequences of their actions under this Bill, will be responsible for damage because the Bill simply requires intent and not the additional requirement of knowledge of their actions.

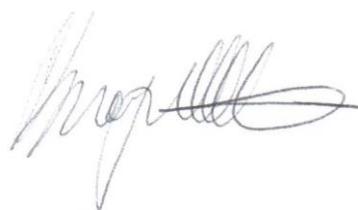
The second concern

AMIDA is further concerned to clarify if other residents move into SDA properties who are not SDA eligible, this may affect the tenancy such that the SDA eligible participant must take on an agreement through the General Provisions of the Residential Tenancies Act 1997 rather than an SDA Provisions. This would then remove the safeguards and protections from the SDA eligible participant.

We are concerned this disadvantages and discriminates against a person with disability who would otherwise be entitled to SDA coverage.

The effect of this disadvantage is to pressure people with disability to share with other SDA eligible people with disability rather than people of their choosing, be they family or friends. The rest of the community is not obliged to forgo protections in order to live with people of their choosing.

Kind regards,



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