

Respecting Renters Rights

**Exploring a model of tenancy rights for
people with disabilities who live in supported housing**

AMIDA 1997

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AMIDA's Policy Statement

AMIDA believes that all people with disabilities should be covered by the same residential tenancy legislation as other members of the community regardless of the supports provided to them in their housing.

AMIDA's policy is based on the belief that people with disabilities have the same human rights as other people. AMIDA also believes that the Australian Disability Discrimination and Services Acts are important milestones in advocating and stating benchmarks for the rights and equal opportunities for Australian citizens who have disabilities.

World Conference on Human Rights (1993) declaration

"person with disabilities should be guaranteed equal opportunity through the elimination of all socially determined barriers, be they physical, financial, social or psychological, which exclude or restrict full participation in society". Furthermore, it was stated that ***"every person is born equal and has the same rights to life and welfare, education and work, living independently and active participation in all aspects of society. Any direct discrimination or any other negative discriminatory treatment of a disabled person is therefore a violation of his or her rights".***

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Chapter 1. AMIDA Tenancy Rights Project

The AMIDA CRU Rights Project was developed as part of a campaign for recognised tenancy rights and conditions for people with intellectual disabilities living in government managed Community Residential Units (CRUs). In March 1994, AMIDA convened a meeting around these issues where over one hundred people attended. The following areas were nominated as being of concern:

- the absence of any legally binding tenancy rights
- inconsistent and high accommodation charges
- problems of the government managed 'Client Account Management System' (CAMS), a financial management system for people with intellectual disabilities who live in government managed houses
- cut backs to support staff
- loss of right to input into the management of housing and support services
- a proposal to 'contract out' the provision of supported housing for people with intellectual disabilities.

The meeting expressed anger in response to diminished rights and conditions for tenants with intellectual disabilities since a large number of CRUs were directly taken over by the Victorian Government in December 1992.

A 'Coalition for CRU Rights', comprising a number of advocacy agencies, self advocates and supporters, was subsequently formed to lobby both the State and Federal Governments. Legally established tenancy rights, the same protection afforded to the vast majority of the Victorian renting population, was seen as integral to protecting the rights, living conditions and quality of life of CRU tenants.

Initially the Coalition planned to conduct research into the living conditions of people who were living in CRU housing. This changed for a number of reasons

(see methodology for fuller explanation).

It was decided to focus the campaign on the broader links between housing and support services and how these affected the ability of people with disabilities to achieve tenancy rights.

A project was developed and became known as the AMIDA Tenancy Rights Education Project. Three stages were to be undertaken during 1997 to achieve our aims.

These were -

1. to undertake research into housing, support services and how these impacted on obtaining tenancy rights
2. to develop a series of short videos and resource materials to inform people with disabilities about their tenancy rights and responsibilities
3. to train people with disabilities as peer educators in tenancy rights.

The AMIDA Tenancy Rights Education Project could not have occurred without the generous support of the Lance Reichstein Foundation.

Chapter 2. Background Issues

Under the current Victorian Residential Tenancies Act (1980) people with disabilities who live in what is termed "a home for the aged or disabled or like institution" are excluded from coverage which is extended to other tenants who pay rent. However, the existing wording in relation to community based residences is very ambiguous. Some agencies who manage supported housing presume that tenancy issues are covered under the RTA, others are uncertain and some do not wish for tenancy rights.

To our knowledge most people with an intellectual disability living in government managed supported housing, who have tried to use the Residential Tenancies Tribunal, have so far been unsuccessful in establishing that their living situation has come within its jurisdiction.

The Report of the Residential Tenancies Legislation Review Committee (1995) noted that there was "considerable merit" in the arguments of advocacy groups for tenancy rights and stated **"If the landlord and service provider roles were separated, the arguments presented by the Office of the Public Advocate and others would be stronger. In the longer term, the C'tee believes that such separation is desirable. In the interim, the C'tee believes that this issue should be referred to the Minister for Community Services for investigation."**

Unfortunately, the Minister for Community Services decision (released in March 1996) was to maintain this exclusion in the draft legislation which is due to go the Spring Parliament session in 1997.

The Victorian Government plans to replace the reference in the Act to "a home for the aged or disabled or like institution" with a reference to **"premises used for the accommodation and support under the Intellectually Disabled Persons Services Act (1986) or the Disability Services Act (1991) of intellectually or physically or sensory disabled persons"**. The government also believes that the reference in the **RTA S.6(4)(h) to a hospital is no longer adequate to exempt accommodation for mentally ill persons and is to be replaced by a reference to places where accommodation, support and clinical treatment for mental illness are provided"**.

Many people with disabilities live in housing owned by the Office of Housing (OoH) and they receive support services. Under the Victorian Housing Act (1983), this means that all tenants must have an agreement under the RTA. The proposal to re-word the RTA in relation to the above may have the affect of widening the exclusion to people not previously covered under the RTA.

The current Minister For Community Services, Denis Napthine, stated in correspondence (March 1997) **" It is not possible to make assumptions concerning this arrangement in relation to supported accommodation services as to the application and scope of an future residential**

tenancies legislation to the OoH's programs will be a matter for the Residential Tenancies Tribunal and other forums to decide "

Most of the disability advocacy groups in Victoria, including the Office of the Public Advocate have always said such action discriminates against people with disability. Some advocacy groups have obtained Queens Counsel legal advice that the proposed changes are discriminatory. If the Bill proceeds, they will be mounting a legal challenge.

They believe the only way to rectify the proposed legislation is to give all people with disability who pay for their accommodation, coverage under the same residential tenancies legislation.

Questions arising from the proposed changes to the Residential Tenancies Act

Issue 1

It appears to be the government's intention to exclude from coverage under the proposed RTA all people with disability who receive services under the Acts mentioned in the Bill i.e. IDPS Act, Mental Health Act, Disability Services Act & Health Services Act. If so, an explanation for why has his been done should be made clear by government. It is not known whether this will include all people who live in supported housing. Other questions which arise are - will it exclude people who receive support but have their housing provided by a different agency?. Precisely which groups of people in which living situations will be excluded from coverage and why?

Issue 2.

Most recently, information has become available which suggests that Disability Services (within the Dept. Human Services, Victoria) have been offered OoH property and non-government tenancy managers have been appointed to manage these properties and DHS will be providing the support. If this is the case, will the tenants who live there be given the same tenancy rights as other OoH tenants ? If this is so, why can't other people DHS provides services to have the same tenancy rights ?

Issue 3.

Rooming houses and Supported Residential Services (SRS) have a very similar population of people with disabilities but it appears there will be inconsistencies as to who will receive tenancy rights. Why are tenants of Rooming Houses covered by the new legislation but tenants of SRSs are not? Is it the intention of this government to do anything to improve the appalling lack of tenancy rights for people living in SRSs? What will this government do to bring about equity and recognition of rights via enforceable tenancy agreements for the large numbers of people with disability living in non-government supported accommodation?

The current situation for people with disabilities is

- a. **People with intellectual disability** : The majority of people with intellectual disabilities live in housing which does not give them any rights under the Residential Tenancies Act (1980) (RTA). Only those who live in Office of Housing (OoH) properties are guaranteed tenancy rights. Many people with intellectual disabilities currently live with their families or relatives or in inappropriate housing such as hostels, SRS's due to lack of housing availability. The Intellectual Disability Review Panel (IDRP) does not have determinative power, despite a major recommendation for this to happen from the Intellectual Disability Services Task Force Report 1995, chaired by Louise Asher. The Secretary General can reject recommendations of the panel and the Minister for Human Services is the final decision maker, where these rejections occur. The IDRP is limited to hearing on only 6 grounds of appeal and it does not cover the residential tenancies issues of the Residential Tenancies Act. It is also only available to people with an intellectual disability.
- b. **People with Mental Health issues:** - There is a Mental Health Review Board (MHRB) but it only determines if people need to be certified or if they are to have voluntary/involuntary patient status, and whether they have freedom to make decisions regarding their medical treatment. It also covers the making of Community Treatment Orders, which can compel a person to live in a particular place to get a specific treatment. (N.B. Numbers having this done has increased dramatically recently). These people don't have tenancy rights and will be hospitalised for breaching the community treatment order. Tenancy issues are not under the jurisdiction of the MHRB review board.
- c. **People with Physical & Sensory Disabilities:** Unless people are in private rental which gives them tenancy rights, there is no independent tribunal to appeal to apart from costly legal or court actions.
- d. **People in Supported Residential Services:** They are covered under the Health Services Act (198). Under this Act there are very limited rights but no access to an independent tribunal.

2.1 Why Tenancy Rights ?

Many people with disabilities who live in supported housing are not covered by the Victorian Residential Tenancies Act (1980) or any other tenancy legislation.

Discussion around giving people with disabilities who live in supported housing residential tenancy rights has been occurring for some years. Advocacy groups like AMIDA strongly believe that people with disabilities are entitled to the same legal rights as other members of the community.

Currently, an over emphasis on support needs at the expense of recognising legal rights results in discrimination. One area of discrimination is where many people with disabilities are not entitled to the RTA. In fact, it could be argued that it is frequently people who are most disadvantaged who most require a range of legislative protection.

Currently, there is a range of terms which appear to be used to describe supported housing. They include - accommodation, shelter, facilities, residential programs, hostels, community residential units, and group homes. Accordingly, the terms used to describe the rental component also vary from accommodation fee, rental charge, residential service fee or board and lodgings charges. The fact there is such wide definition of both the service type and fees indicates that there is some confusion about the roles of housing and support services for people with disabilities.

This may have its origins in the history of the disability sector. Housing services have evolved from asylums to institutions, congregate care facilities, to group homes models.

Each agency has its own special historical , cultural and organisational traditions and practices which have contributed to the variety of services available.

The tradition of combining support needs with housing is now a model which is under challenge. The move towards individualised service planning and supports is part of the philosophy that people with disabilities should be covered equally by laws and responsibilities which pertain to the rest of the community. Tenancy rights is a fundamental part of this process.

The IDSPA(1986) P 2. S.5(I) declares that

"The State of Victoria must ensure that govt. and non govt. organisations providing services to intellectually disabled persons are accountable for the extent to which their rights of intellectually disabled persons are advanced and service quality assured".

The AMIDA research project highlighted the perception that many agencies were unclear about tenancy status. However, some believed that the RTA was applicable. Some agencies used their own tenancy agreements which are primarily based on the RTA standard agreement. Since the research was completed, many agencies have confirmed that their tenants are or should be legally covered by the RTA. The increasing use of Office Of Housing properties by these agencies have also led them to believe that tenancy legislation applies to them. In fact, the Office of Housing requires that all people who rent their properties have tenancy agreements.

Unwillingness to give tenancy rights appears to be based on the following issues:

- Questions have been raised as to whether supported housing is comparable to other housing options (such as public or private rental, rooming houses) who have coverage under the residential tenancy legislation. This is based primarily on the fact that there are paid staff to support people with disabilities. However, all DHS information states that people with disabilities, their families, staff, service providers are to

regard the residence as their home. If this is the case, why can't tenancy legislation apply ?

- The belief that the presence of staff inhibits a 'normal' home environment. This assumption tends to stigmatise people on the basis of their disability. It implies that many people with disabilities are incapable of learning and understanding tenancy issues and concepts. This is relevant for some people with disabilities but does not recognise that many people with disabilities can grasp concepts if they have been informed in a manner and language that makes sense to them. Also it is inconsistent with the fact that many people who live in the community have a range of paid professionals (attendant carers, Royal District Nursing Service, home help to name a few) who come into their homes to perform services. They are not asked to give up their rights as either a home owner or tenant on the basis of the supports they require.
- another issue which is frequently raised is the concept of 'duty of care'. This is used to describe an agency's responsibility to ensure that a person does not put themselves or others at risk. However, the duty of care principle is too susceptible to wide interpretation. It is frequently up to individual worker's discretion to determine at risk behaviours. Therefore, each worker's own values, knowledge and skills have an impact on their decision making processes. In relation to tenancy rights some workers may believe that all tenants of a group home should be in bed at a certain time of night, or that all tenants must always go on outings as a group, for to leave someone at home alone is not following duty of care. There are instances where some people with disabilities should not be left alone, but overuse of this practice is widespread. This often results in work practices that minimise potential difficulties for workers at the expense of service users individuality, choice and freedom, thereby infringing on human and civil rights.
- Duty of care is also used by service providers to cover situations where tenants may have assaulted (physically or sexually) other people, usually their co-tenants. In this situation there will be a duty of care to maintain the protection of other tenants within a particular house. The processes undertaken to deal with such a situation may vary widely - some agencies will not want police involvement even though the issues relate to alleged criminal behaviour, and some will involve the police. It is reported from a range of sources (people with disabilities, house staff, agencies, Dept. staff, families), that frequently people were moved from their home without proper investigations occurring. Under the RTA any alleged behaviour can be dealt with by s.118 of the RTA and agencies can seek an urgent hearing of the RTT to remove a person from a house. Furthermore, intervention orders could also be used in these situations. At times it appears that agencies may be reluctant to use the legal avenues currently available.

The principle of duty of care can become murky in these situations. An agency may choose not to evict someone whose behaviour is risking the

safety of others, yet they also have to consider other tenants safety. Reasons for non - eviction such as the above situation reflect primarily the fact that housing services for people with disabilities are extremely limited and any moves are usually to housing which is poor quality and lacking support services.

This reluctance to use legal avenues is also a barrier to tenancy rights. Some agencies justify this by suggesting that many people with disabilities cannot understand the consequences of their behaviour and therefore should not be subjected to legal proceedings.

Case Study Don

In this case, Don was evicted from a Dept. CRU for alleged illegal behaviour (although no charges were ever laid). The eviction took place at night and Don was relocated to a locked CRU which was totally inappropriate. There was no bedroom available, he had to sleep on the lounge room couch. Don was moved with only the clothes he was wearing at the time and without his medication. Also, the CRU was not accessible by public transport.

Appeals for information and discussion with the Regional Manager of Dept. met with little response. Don then decided to take his case to the Residential Tenancies Tribunal (RTT). The aim was to seek redress under the RTA as a means of having an independent hearing on the issues concerned. There was no other legal or quasi-legal avenue available, as his solicitor had advised him that his situation was outside the jurisdiction of the Intellectual Disability Review Panel.

The determination of the Residential Tenancies Tribunal Referee in this case (*Sweeney v Dept. of Health & Community Services 29.6.94*), was that it did not fall within the jurisdiction of the RTT. This order was set aside by the Victorian Supreme Court in November 1994 and was sent back tot he RTT for a new hearing. It was finally heard at the RTT in April 1995 and the final decision was that the application be struck out. The Referee accepted the argument put by the Dept. that because Don could not prevent staff from entering his room, that he did not have exclusive possession.

Neither the Residential Tenancies Act (1980) or the Rooming House Act (1990) were found to apply. Subsequently Don ended up living alone in a caravan park in very poor circumstances. Ironically, he finally obtained access to the RTT and won his case for compensation when he was treated unfairly in the caravan park!

Agencies also reject tenancy rights on the grounds that it will impinge on their ability to 'move' people with disabilities from one house to another.

Reasons cited as why it is necessary to 'move' tenants are

the impact of people with challenging behaviours on other tenants

'client' support needs - this may mean medical needs,

or 'client' differences - usually incompatibility with other tenants

Underscoring this argument about necessity to move people is essentially a concern about cost factors. For example, it will be cheaper to place all people with disabilities with high support or medical needs in the one house rather than at a range of different properties. This concern is common, particularly as agency budgets are shrinking with the continuing funding cuts to community services. However, this is not a valid reason to deny tenancy rights.

From an agency and govt. perspective tenancy rights would impede this practice. People would not be able to be moved as easily - agencies would need a valid reason, and apply the RTA processes of giving notice. If as govt. policy states that a house is to be regarded as a persons home, they should only be moved *"with valid and reasonable reasons and under clear guidelines which set out the process"*. However, a lack of adequate funding has contributed to current situations where agencies frequently move people as a means of reducing costs and keeping within budgets.

Case Study Jenny

Jenny had been living in a CRU for 6 years when she had been told verbally by H&CS that she would have to vacate the premises at an unspecified future date and would have to move to another CRU, as the current one was going to be sold.

An application to the Intellectual Disability Review Panel (IDRP) was made. The case was heard in April 1996. The IDRP's decision was that this matter was not a reviewable decision under the Intellectually Disabled Persons' Services Act (1986) (IDPS).

If Jenny had the same residential tenancy rights as other members of the community, she would have been entitled to require provision of a written notice of 60 days with the reason/s spelt out or 6 months notice to vacate if no reason was given under the RTA.

Tenant incompatibility issues will continue to occur when groups of people live together. Sometimes it is impossible to know how people will relate with each other until they share a house. When people have no choice as to either the numbers of people and who the person is, this increases the likelihood of incompatibility. Generally people with disabilities have less access to rights or services which will assist them to gain some redress in these situations. Lack of tenancy rights further erodes any ability to challenge the arrival of a new co-tenant, or the departure of oneself or a friend. The lack of funding for housing services further aggravates this situation. However, within the general community, freedom to choose one's housing and co tenants is considered a basic human right.

- Some agencies are against tenancy rights as they believe it will reduce their control over their tenants. This is particularly evident in services where housing is contingent on an individual attending support or treatment programs. Some agencies wish to use housing as an incentive for treatment compliance and may use this threat either covertly or overtly. Tenancy rights would give tenants in this situation a recourse to not having their housing jeopardized on these grounds.

Case Study Julie

In late 1994, Julie lived in a house with a number of residents. She was at the time dying of terminal cancer. One resident actually owned the property and it was managed by a Trustees agency and the management (a separate non-government body). The Dept. of Human Services role was to provide support services to the residents.

Julie was to be evicted for what was regarded as insoluble behaviour problems. This action was initiated by owner resident, and management group. Julie's case was taken to the Intellectually Disabled Review Panel by her legal guardian , a family member. The Panel stated its involvement was limited to consideration of the review or amendment of her General Service Plan under section 51(c) of the IDPS Act and that it had *"no jurisdiction with respect to matters under dispute between Ms. X and her advocates on the one hand and other residents or house management on the other"*.

The Panel did conclude *"that the most appropriate option for Ms. X was for her to remain at (her current address) with additional support."* However, given their previous ruling that they could not decide about the eviction issue as it was outside their jurisdiction, they also added *"should Ms. X be required to cease residing at (her current address) in line with the request (of the management), the IDRPs concludes that the appropriate alternative option is placement at (another CRU recommended by the Dept. of Human Services) with support and with some additional recommendations."*

Julie was finally made to leave the house against her family's wishes. Her family took her home for her last months of life, as they refused to put her through another move to a strange CRU at such a distressing time in her life. She has subsequently died.

In summary there are a number of reasons which explain why there is opposition to

people with disabilities in supported housing having tenancy rights.

These include - the lack of appropriate funding which may necessitate shuffling people around housing services primarily to keep budgets down, misconceptions of how the RTA actually works and a desire to maintain a range

of controls over the movements and lives of people with disabilities which while benevolent in nature actually serves to discriminate against people with disabilities.

Tenancy rights may mean individuals, their families, advocates and agencies may pressure government departments to adequately fund services in order to meet tenancy rights obligations as a landlord. Tenancy rights may also mean providing levels of funding which meet the governments own policy and legislative frameworks which advocate equality, access and participation in the community in reality not just the theory.

The spirit and intent of the Victorian IDSP Act (1986), and other legislation which have established principles in relation to service delivery functions and enhancing the dignity and rights of people with disabilities would be further realised.

The move towards tenancy rights would enable people with disabilities the right to enjoy the same tenancy conditions as other citizens who pay rent.

Advantages of the Residential Tenancies Act

AMIDA believes that many agencies who provide supported housing would use the Residential Tenancy Act more frequently if they understood the benefits to both themselves and their service users.

The benefit is that it clearly sets out the rights and duties of landlords and tenants in relation to -:

1. standard tenancy agreements and condition reports
2. statement of rights
3. payment of rental and how receipts should be issued
4. duty to maintain premises in habitable state
5. what are general repairs
6. what are urgent repairs - (burst hot water service, dangerous gas or electrical problems, flooding, storm or fire damage, blocked toilet system, serious faults in lifts or staircases)
7. quiet enjoyment - all reasonable steps to ensure this occurs
8. sets out how termination of agreements can occur by the tenant
9. sets out how landlords can terminate agreements
10. eviction processes for immediate eviction (s.118) - where tenant has caused malicious damage to the premises or threatens the safety of neighbours, (neighbours has been interpreted in the Group Housing Program as co tenants who have separate leases and thus is used for eviction purposes), or premises unfit for habitation or have been destroyed

Given that many agencies often rely on a range of processes to handle tenancy and support issues, the use of both the RTA and the Residential Tenancies Tribunal will greatly assist in clarifying the rights and responsibilities of both tenants and landlords in wide range of situations.

The RTT has long been established and is very experienced in handling a range of circumstance. Furthermore, by adopting a system that is already in place will mean that agencies will not have to replicate agreements and resolution processes which already exist in the community and thus enable them to concentrate more fully on their service delivery roles and tasks.

2.2 What can happen when people with disabilities don't have tenancy rights ?

- **Advocacy groups have found people with disabilities in both govt. and non-government supported accommodation tend to feel very vulnerable in their accommodation. (STAR "A Fair Go" Project 1996/7 and the Office of the Public Advocate "*The Report of the Inquiry into the increasing Costs of Disability*" (1993). They are often scared to object to anything or ask for repairs/responsibilities of landlords/service providers. They are very frightened of losing their accommodation and know there is nowhere else to move.**
- **People with disabilities rightfully regard these places as their homes, they are not facilities to them - most will live there for many, many years to come. They should not be facilities where people can be managed in cost efficient ways. This often means moving people from unit to unit like pieces in a jigsaw puzzle.**

Case Study Ruby

Ruby was moved out of her home to make room for someone moving out of an institution. She has little verbal communication and does not have any family members or friends to advocate for her rights and this may have been why she was selected to move. No-one checked on the implications of a move for Ruby until after the event and she lost her place in a community service she was using due to no longer being in the catchment area. Although Ruby was moved on a trial basis, once she was, there was no chance of her returning to her previous home. By the time advocacy groups had heard about Ruby's case they were told it was too late and Ruby would adjust in time. Ruby could have sought advocacy help when given a notice to vacate had she been covered by the RTA. She would have had a case using s.7. of the RTA (cause her hardship by this eviction) and this may not have occurred.

Case Study Anna

Anna was living in a government run CRU with three other male tenants. She was quite happy and settled there and the whole household was very much part of the street. A place was needed for a man who had challenging behaviour and the DHS decided to move Anna to make a place available for him. A fence was erected around the house to restrict the new tenant's movements when he moved in.

This cut the house off from their neighbours and the existing tenants were not happy about this. Anna was moved to a house with a group of women who had just moved out of an institution they had lived in for many years. She was not happy there and was moved back to her home temporarily while another place was found to send her to. If she were covered under the RTA she could have argued under s7. To move her out of her home on this basis was unnecessary hardship.

- Non-government service providers rarely disclose which part of their board & lodgings charges comprises the rent element and most residents are unaware of the amount of rent they are paying.**
- The state government or other non-government service providers can set rent at anything they like at present - usually no other alternative exists for people to move into, so have to take what given. Approx. 2500 people with intellectual disability are known to live in State government run and managed community-based accommodation. Rent is currently set in government houses at 20% of adult pension but the 20% relates to adult pension and not basic pension as with Dept. Planning and Development (DPD), housing. For example, 16-21 year olds only get part-pension but pay full adult rent.**
- It also does not link to current market rental figures, unlike DPD housing, and thus can be very expensive in low rental areas e.g. rural towns, especially as 4-6 people all pay the same amount of rent for each house. In the Group Housing program for people with disabilities, residents pay whichever is lower - 20% of gross income or ceiling market room rent .**
- It is possible that Disability Services may charge a board and lodgings fee in its housing, thus making tenants eligible for Federal Govt. rental assistance. This means that people with disabilities will get bills which do not spell what the rental and other charges will be. This would have the effect of getting new money into the system. It would also have the effect of not acknowledging that people with disabilities are tenants and pay rent.**
- There is rarely any internal tenancy agreement available, signed or given to residents when they first move in or later, let alone any acknowledged Residential Tenancies coverage. Residents consequently, have no detail of accompanying responsibilities and what will be provided for the rent and board paid. Few know what is being provided by their landlords, either government or non-government. Thus normal protections regarding eviction and maintenance responsibilities do not exist.**

Case Study: Graeme, Wendy, Patricia and others

Advocacy groups have found that peoples addresses are no longer being listed on their General Service Plans (GSP). The individuals concerned have not realised this is occurring. If an item is not listed on their GSP then there are no grounds for appeal to the IDRPs over disputed issues. Consequently, when Graeme, Wendy, Patricia and others wished to appeal about a housing issue and went to the IDRPs they would find there was nothing they could do. Residential Tenancies Act coverage would alleviate this situation, as it would give security of tenure in line with all other renters and an independent tribunal with determinative powers could hear tenants complaints.

- In Community Residential Units (CRU's) and non-government services currently, people have been found to be paying for minor maintenance, providing fittings, furnishings, floor coverings unlike the rest of community. Some people contribute to water costs. However, it is stated on water bills that people are only liable if you have a tenancy agreement. Despite having no Residential Tenancies agreement, people with disabilities who live in supported housing are still paying these costs.**
- Most providers, both government. and non-government, are monopoly providers who set the rent, decide the board costs, provide the housing, provide the support services, help handle or directly manage their finances, provide their day programs and often their recreation, transport and many other areas of daily support.**
- Currently, these tenants have no access to independent tribunals on tenancy matters. There is no way for residents to ensure their landlords comply with the responsibilities which other landlords have such as providing written tenancy agreements.**

Case Study Neil

Neil was happy in his home until another tenant moved in and began to assault him. Neil could not avoid the new tenant and staff were unable to stop the attacks. DHS offered to move Neil out of his house despite the fact he had lived prior to the arrival of the new tenant, was very happy there and so were his family. No one wanted Neil to move. The new tenant stayed in the house until Neil was assaulted six times and was hospitalised as a result. If Neil and other tenants had separate agreements under the RTA , the new tenant could have been given immediate notice to vacate the premises for posing a danger to his neighbours. DHS would have to find this tenant a more suitable place to live.

What makes a house a home ?

homes have real addresses rather the names of facilities or groups
there are expectations of permanence

leaving is by choice
tenure should be contingent on a lease
people have control over who can visit or stay
people have control over their physical environment

Chapter 3.

Current Housing and Support Service Delivery Models

Traditionally, many people with disabilities lived in institutions or 'homes' operated by either government or benevolent agencies. These institutions were organised and run along welfare and medical models of care. The assumptions which underlined this approach were that people with disabilities needed to live in an environment which focused on their care and safety needs. Usually institutions were located in isolated settings and there was virtually no contact with the world outside their gates. It was assumed that people with disabilities were static human beings who could never learn or acquire skills and that they would always be totally dependent on others for their every need.

It is also speculated that many people with disabilities were confined to these places in an effort to not only 'protect' them but to also protect the interests of a society that could not deal with the difference of disability. This confinement has led to many tragic consequences - separation and loss of family life and local communities, widespread physical, sexual and emotional abuse of people with disabilities which was not recognised or ignored for generations and finally the creation of people who did not have their own sense of identity and self, leading to chronic low self esteem, vulnerability and isolation from the rest of the community. Many people with disabilities who lived in this way have a range of psychological, personal and behavioural difficulties.

These consequences have frequently been interpreted as indicators of the further need to separate and protect people with disabilities from the rest of the community.

During the 1960's the process of de-institutionalisation began to commence. This saw the closure of many Victorian institutions and a mass movement of many people with disabilities into mainstream living. The philosophy which underpinned this new approach was that of 'normalization'. The goal was to provide living conditions described as the 'least restrictive alternative' for people with disabilities which would maximise their independence but provide for their support needs.

The shift away from institutions to community living options was an extremely progressive move for people with disabilities. It enabled many people with disabilities to experience a greater sense of control over their lives and to participate in activities which were not centred on one particular setting. It opened up opportunities to learn new skills, abilities and to develop some increase in self esteem. It was within this context that new ways of thinking about disability have evolved and new laws which enshrined philosophies and

service delivery frameworks which emphasised rights and integration were put in place.

AMIDA supports the concept of community living. Supported group housing is one option for community living for people with disabilities. Recent studies have found that the quality of life of those who have moved out of institutions has improved. (Picton, Cooper and Owen, 1997)

Supported group home living was viewed as a stepping stone to greater independence and integration. It was a move away from a model of care which was based on medicalisation of disability which assumed that hospital institutions were the best form of care. This model did not differentiate between people who have an intellectual disability and people who have a psychiatric disability. Legal recognition finally came with the enactment of the IDSP Act and the Mental Health Act in the mid 1980s.

Over the decades, other forms of housing were developed. Many parents started their own services to provide alternatives to institutional living which they saw as limiting the growth and development of their children. Thus a range of disability specific services grew up to cater for the care needs of particular disability types.

The most dominant model in residential services for people with disabilities is the supported group home model. Essentially, this is where groups of 4 - 6 people live together in either residential houses or bigger congregate care centres with supervision and support provided on a staffed roster according to their functional disability needs. The pressures of budget cutbacks have seen household sizes increase and impacts on the ability to provide the originally intended community living idea.

A range of agencies (government, non-government and community based) operate group homes. A range of services may be provided in one setting - it is most common that housing and support services are jointly provided, other centres also provide day work and educational programs although this practice is beginning to break down. For example, people with psychiatric disabilities may live in communal settings and attend day 'programs', treatment options or workplaces which are all related to their disability.

Generally, the values inherent in the group homes model are underpinned by assumptions about people with disabilities which can be described as follows

- they are better with their own kind,
- a monitoring type of housing is necessary
- that their housing and personal needs will remain the same
- that due to their disability will 'fail' in more individualised settings.
- that people with disabilities like living in groups and can 'adapt' better to this

The vast majority of agencies gear their services and programs on the functional care needs of people with disabilities. Many agencies find it difficult

to establish services which look at developing and encouraging strategies which aim to give people with disabilities real opportunities to develop friendships and support networks in the community.

For many people with disabilities, it has become another form of institutionalisation. In order to receive support services which may allow some measure of independence they must enter into living arrangements which are based on their disability.

However, over the last thirty years there has been remarkable changes in both the public and private spheres concerning people with disabilities. This change has led to a shift in values and beliefs. Emphasis is changing from a care and safety framework to the broader issues of the inherent human rights of people with disabilities.

Factors which contributed to this are the emergence of a strong disability rights movement, a genuine change in attitudes towards people with disabilities. Furthermore, in the late twentieth century there is generally much more awareness about the humanity and rights of individuals.

Whilst many changes have occurred it must be noted that many people with disabilities are still living in conditions and situations which would not be considered dignified or humane by people without disabilities.

Also, a number of disadvantages with the way this model has been implemented have become apparent. These can be summarised as follows -

- that many people with disabilities are still living segregated lifestyles with no real involvement in activities/networks which promote their integration into the community.
- it supports the assumptions that only professionals will decide when an individual is 'ready' to move to less structured living environment
- it continues to give validity to the beliefs that all people with disabilities need to be monitored for their care and safety
- people often lose their individuality as a result of routines which are often developed to suit staff needs rather the residents. For example, people are often required to eat at the same time, shop together and share the same recreational interests. Expressing individual needs can be seen as either a luxury activity or an irritant to the prevailing routine.
- sharing household tasks is frequently a source of tension in any household, but it can be much worse in group homes where people often require assistance to perform these jobs and as staff time is limited.
- people with disabilities frequently have no or limited choice as to whom they share rooms and a home with. Incompatibility commonly occurs but is not genuinely dealt with. Subsequently, behavioural issues may arise

when people are forced to live with others with whom they may not like. Not many professionals are forced to share their homes with people they have not chosen to be with or have anything in common. People with disabilities in this situation are frequently exhorted to either adapt their behaviours or negate their feelings about other people. It is usually forgotten that people with disabilities lack control and choice.

- current cutbacks to community support services can mean that there are many ways in which activities which debase people with disabilities are occurring - limited staff means the priorities become dealing with the functional tasks which may leave no time or resources to provide other supports such as personal and emotional needs. Other problems which have occurred are putting people with high support needs in the same household as a cost saving device but without regard for the individuals concerned. This is a return to the institutional medical mentality. In times of tight budgets and cutbacks to community services group homes remain a cheap alternative.
- Tenants may not have their own door keys
- the agency acts as both landlord and support to the individual which can lead to conflict of interests and confusion over roles and responsibilities for both the tenant, staff and agency.
- people are generally regarded as clients/residents rather than people who pay rent for their housing.
- control over their finances (such as the Client Account Management System CAMS)

Despite problems with the way the group housing community living model has been implemented it must be remembered that "people with intellectual disabilities are generally better off when they are returned to the community, including those people with severe-profound disabilities and challenging needs." (Picton, Cooper and Owen. 1997) The challenge is to improve on and increase the models currently available.

Emerging trends

New ways of conceptualising services for people with disabilities have been emerging for some time on a world wide basis. Increasingly, there is a move away from a single service agencies providing a range of services. The move is to service delivery models which are beginning to 'package' services on an individual basis. Parmenter (1994)

There is now increasing recognition and importance attached to processes which aim to integrate people with disabilities into a local community or neighbourhood. The aim is to encourage the development of meaningful relationships/friendships and informal support networks. This approach goes hand in hand with the supported living model.

Bradley and Knoll (1990) set out the basis of this approach as being

1. a commitment to family and friends
2. an emphasis on human relationships
3. person centred programming and
4. real choice and control by people with disabilities

Supported living means opening the wide range of housing options to people with disabilities which are available to people without disabilities. This means 'regular' houses, flats, units, housing co-operatives, shared houses, and family homes.

It means giving choice to people with disabilities over a range of things such as - where they live, with who they live, providing supports which are tailored to the particular individual's needs and preferences and which aim to enhance personal esteem and friendships within their particular neighbourhood.

Individual choice and empowerment

"In order for the system to ever change, the consumer is going to have to be given the dignity and right to fail. Failure is only the other side of success. As long as the system is bound and determined to prevent failure, they're going to prevent success".

Tom Posey (1988)
National Alliance for the Mentally Ill (USA)

Both individual choice and the of empowerment of people with disabilities are crucial aspects of the supported living philosophy and service delivery framework. Meeting the sometimes complex needs of people with disabilities is most effective through providing highly individualised supports which include independent homes, jobs, friends, and recreation.

This move towards individual choice is seen to have a number of benefits which are outlined by Curtis (1992).

These include -

- it broadens the range of service options which are available by including non disability services within service choices/options
- this often results in increased/improved resources, service co-ordination and continuity of services.
- encourages people with disabilities to voice their preferences and needs

- it may highlight barriers which exist in relation to accessing services and can help to identify policies and procedures which can overcome these barriers

Need for a New Approach

There is now greater awareness that people with disabilities should also have the same access to human rights and equal opportunities as other members of the community.

It is time to move away from placing groups of people with disabilities together in either small residences or congregate centres. Wider options and choice need to be made available rather than just one approach.

It is therefore important that any new service developments be based on this understanding and the rights of people with disabilities are addressed. Opportunities for empowerment and choice should be made available. For example, giving people tenancy rights is a meaningful way to become part of a community which already has these same legal protections

A key aspect of this belief is that housing options should be varied and be integrated with other community housing services and types. Furthermore, a separation of service provider functions such as housing and support services is a vital element. Single service provider agencies are viewed as another step along the way to achieving for people with disabilities the same rights as other members of the community.

The issues involved in this separation of functions will be discussed more fully in forthcoming chapters.

Chapter 4. AMIDA Research Project

Supported housing and tenancy rights

The initial aim of this project was to investigate the tenancy rights and conditions of tenants in government-managed CRUs, however as Westernport Speaking Out, a self advocacy group for people with intellectual disabilities, had recently completed a qualitative research project into the conditions of these tenants, AMIDA decided to focus its research on conditions in the non-government or community managed housing sector. The research which follows documents the perspective of service providers. We have not canvassed the views of people with disabilities or their families in this research.

The key issues emerging from AMIDA's research, together with the issues that had been previously raised and documented concerning government management of CRUs were presented to a workshop of tenants, housing providers and advocates in August 1995, where participants were asked to consider 'best practice' for housing management. The outcomes of the workshop form the basis of the tenancy management model contained in Chapter 6 of this report.

4.1 Research Methodology

This part of the project was carried out, part-time, over approximately a 15 week period and as such relied heavily on the co-operation of the community housing providers approached for information or assistance. A Steering Committee of self-advocates, AMIDA Committee members, representatives of other agencies and interested people met regularly to oversee the project and their knowledge of the field, assistance and guidance was equally important to the progress of the project.

The Steering Committee initially decided that the researcher should attempt to survey a 10% sample of the non-government or community-based supported housing managers across Victoria. As the project developed and many of the interviewees were found to manage both 24 hour supported households and households with lesser support needs, the Steering Committee broadened the focus to survey managers of a range of supported accommodation for adults with intellectual disabilities.

The researcher was asked to compile a list of questions to elicit:

- tenants conditions, rights and responsibilities,
- whether there were formal tenancy agreements enforceable under the Residential Tenancies Act existed, and if not,
- how did agencies protect the rights of their tenants.

In order to ensure a better response rate and a better quality response. it was decided that these questions should be put in personal interviews, rather than through a posted questionnaire. The researcher first approached the non-government supported accommodation managers with a letter of introduction, then a follow-up phone call to arrange a date and time for an interview. The response of the non-government sector to the project proved positive, and in some cases the introductory letter was dispensed with.

Constraints in Accessing Government Information

As a first step, the project required a complete list of non-government managers of 'CRU-type' accommodation in order to draw a 10 percent sample.

It was assumed that supported accommodation would be funded under the Commonwealth State Disability Agreement and that information relating to them would be a matter of public record therefore the Department of Health and Community Services (H&CS), (now known as the Dept. of Humans Services DHS) was approached. However obtaining information proved to be a extremely frustrating.

Despite numerous approaches, stressing at all times that the information sought was for legitimate research and no addresses were required, the researcher had little success in obtaining the information. Whether this was due to bureaucratic ineptness, secrecy or lack of knowledge is difficult to know, but it is of serious concern considering the impact of H&CS policies on the lives

of people with intellectual disabilities. The Department of Health & Community Services is responsible for implementing the Intellectually Disabled Persons Services Act 1986 (IDPSA), which represents a commitment to:

"...promoting the integration of intellectually disable people into the community and ensuring access to services such as legal, residential, vocational and employment services. The legislation stresses the right of intellectually disabled people to participate in community life and services in the same manner as any other person "

The Federal Department of Human Services was contacted, however they did not have the required information as Commonwealth funds are distributed by the Victorian Government. Officers from this department saw no reason why H&CS should not make this information available.

Since a full listing of managers of supported housing was not available the researcher relied on an out-of-date H&CS Directory, the telephone, the knowledge of the Steering Committee members and assistance from non-government agencies. Thirteen housing and/or support agencies agreed to an interview for this project. AMIDA has no way of knowing what percentage of Victorian providers the sample represents.

The Survey

Non-government agencies approached for an interview were on the whole, open and welcoming. Two agencies were unable to fit in an interview within the researchers timelines, but otherwise thirteen of the agencies approached participated.

The information we attempted to find out was quite detailed and all interviews differed from each other. None were straight forward, they varied in the size of agency and type of service delivery to for example, where an interviewee was responsible for service delivery but removed from the financial/administrative side of the agency.

Terminology

It became clear that the term Community Residential Unit (CRU) is perceived by many in the non-government sector to relate to housing for people with intellectual disabilities now managed by the State Government. Arising from interviews, it also became clear that, since H&CS assumed management of this housing, some agencies stated that the name Community Residential Unit has fallen into disrepute. It is associated with restrictions on the rights, living conditions and opportunities for tenants. One interviewee said "just the name CRU is a barrier in itself to people having rights". For this reason AMIDA has used the broad term 'supported accommodation', which can encompass housing in both the government and non-government sectors.

Chapter 5. Findings and Discussion

Tenancy/management issues for Community Housing Services

Thirteen community housing services were interviewed for this project. This was a fairly diverse group including agencies which:

- manage both housing and support
- manage both housing and support, but in some instances only provide support
- have minimal involvement in housing management and primarily provide support to people living in their own accommodation
- manage housing and support, but have formally separated out these functions
- manage a variety of accommodation including, hostels and boarding houses.

A variety of agencies are represented in the sample and they are considered to be representative of community housing services in their field.

They are:

- country and metropolitan based
- those responsible for one property through to those managing more than 20 properties
- those that have histories of up to 50 years (some former Regional Residential Associations) and those which began as recently as 1992.
- those associated with sheltered workshops
- church-based community service agencies
- both non-government and community-based agencies.

Funding

National standards for disability services are attached to funding agreements under the Commonwealth/State Disability Agreement. Community housing services are required to work to these standards, although in assessing progress towards these standards, factors such as the current economic climate and available resources are taken into account.

All but one of the agencies in our survey currently receive all of their funding under the Commonwealth/State Disability Agreement (CSDA). The CSDA came into effect on 1st July 1992, and is governed by the Victorian Disability Services Act which makes all accommodation services and support services a Victorian responsibility. Community housing services receive only wages funding under the CSDA.

Staffing

Support workers are covered by two awards commonly referred to as the '8 hour award' and the '24 hour award'. The '8 hour award' allows for higher rates of pay. Community housing agencies believe that their service would be

improved if they had funds to attract more qualified staff under the '8 hour award'.

Funding to agencies to pay staff at the higher '8 hour award' seems fairly arbitrary. One community housing service with approximately 20 properties says that all staff, except the staff at 3 of its houses, are paid according to the '24 hour award'. The 3 houses paid under the '8 hour award' were inherited. This agency has submitted for '8 hour funding' for all staff over the past 7 years without success.

Another housing provider has '8 hour award' funding for staff working in one household, and '24 hour award' funding in its other three. Where agencies received funding under both awards, they were surprised that this disparity had not led to discontent amongst their workers.

One community housing service said it has workplace agreements in place but has had to find the funds to cover the wage increases. Its CSDA funding has remained at the same level for the past four years.

Funding Shortfalls

Apart from problems with the wage rates funded, many agencies are seriously under-funded, some examples are:

- funded to approximately 85% of its costs
- funded to 80% overall and only up to 60% for some of the houses managed
- only one of seven houses receive any CSDA funding. This particular house is only funded to 60%

However one agency said that under federal funding (prior to the CSDA) it had only received 80% of its costs, but now its staff salaries are funded to 100%.

Funding shortfalls place community housing services under considerable pressure. If they provide staffing in excess of the funded levels, and several said they do, then they must find or raise the funds to cover this. Many community managers have had to look upon their tenants as a source of income and impose some level or charge for the service they provide. Community housing services are forced to a bottom line of trying to balance their budgets and at the same time provide the best service possible to their tenants.

The Victorian Government's philosophy of economic rationalism has already cut a swathe through our community services with no apparent regard to human costs. This philosophy emphasizes user pays approaches with the aim of reduced govt. spending and direct responsibilities. Disability services are not immune to this process which appears to award contracts for services to the lowest bidder. This will have consequences in the quality of services which will be provided.

In 1995 community housing services had to negotiate 'unit cost funding'. The Minister for Community Services explained the new funding system:

"The government will forever change the way it funds disability services in Victoria. The government will no longer fund agencies, rather it will purchase services from them at an agreed benchmark or unit cost rate. The government will enter into effective funding and service agreements to purchase an agreed volume of service at the agreed relevant unit cost formulae. The agreement will articulate client outputs and outcomes.

Service providers who cannot meet the unit cost will be initially assisted by my Department - and, I hope, by other service providers to do so, but if they cannot the funds and clients will be moved to a service provider who can."

Type of Accommodation

Community housing providers manage long-term group housing under various forms of ownership:

- donated by a community group and situated on State Government land
- owned by the community housing service
- tenants rent on the private market
- Public housing programs
- Office of Housing Community-Managed Programs
- Office of Housing, Community Housing Program, where the community housing service holds the title
- equity with the State Government and/or a third party, e.g. a trust
- purpose-built with Commonwealth State Disability Agreement funds
- houses owned by tenant's families and leased to the community housing provider
- funded by H&CS
- leased from trustees of an estate
- tenant owned
- leased from interested individuals in the local community
- rented Public Housing.

Support needs

The current tenants of the accommodation surveyed have a range of support requirements from minimal needs through to high support needs. Only one service surveyed specialised in providing for high support needs tenants.

The support needs of tenants are not static:

- a relatively small percentage of tenants will have ongoing high support needs

- many tenants are said to expect to progress through the support options of the respective community housing services to more independent lifestyles
- deteriorating health amongst, mostly older tenants, may escalate the need for higher support levels which community housing services can no longer meet. One service solely providing support to people in their own homes, when faced with this situation, continued to work with a person for well over a year after he had moved into a Nursing Home.

Activities

According to the majority of services interviewed, tenants were able to go out independently. Some households had as little as 4 hours support per week. Other tenants required some level of support to access the community whilst a small percentage were physically unable to go out independently.

Most of the tenants have day-time commitments — either work, day placements, volunteer work or other activities. Two services provide housing, support and work or day placements. In both cases, the majority of tenants and support recipients also had their day placement with the same agency. Both agencies said they were aware that some people may see this as a problem. One commented that where people live, work and socialise together, it can be restrictive.

Money Management

Tenants are generally on restricted incomes, most receiving a Disability Support Pension, although some worked and some had other incomes. According to the services interviewed, money management took a variety of forms and ranged from:

- tenants managing their finances independently
- tenants being supported to manage their finances
- all tenants in two services have their parents or relatives manage their money as advocates
- in one service few tenants are said to be able to manage their own money
- one service trains tenants in money management skills
- where tenants had substantial amounts of money one service will suggest a legal trustee through the Guardianship Board
- some tenants have administrators which might be the State Trustee
- one service has its own system of 'trustee'.

Personal Freedom

According to agencies there are no curfews in place. However, one service made the point that at times, individual staff on duty do impose time restrictions of their own accord. One service said that during mid-week, tenants are encouraged to be home by approximately 10 pm because of their day placements. Another service asks tenants to let staff — where household

has 24 hour staffing — or co-tenants know roughly what time they will be home to allay concerns of co-tenants. One community housing provider with high support needs tenants praised the commitment of it's staff for their flexibility about starting and finishing times, so that change of shift did not cut short special outings.

Accommodation Charges

Tenants pay a weekly amount as rental, variously known as 'accommodation fee', 'room and board', a 'full board fee', or 'board'. This will be referred to as 'accommodation charge' for brevity. In all cases this charge includes rental, but in some cases it also covers other costs. The standard accommodation charge covers rent, administration, maintenance, company cars etc. and in some cases support costs. For some properties, the accommodation charge has to include an amount to cover staff costs.

Charges varied from agency to agency. At times it also varied amongst houses managed by the one agency, where this happened, it does not appear to relate to the relative position, quality or condition of the properties or number of tenants. In all cases, the rental difference was explained in terms of the level of support to the households. Rent is apparently uniform for a house, whether you have a single room or share one, unless the house is acquired through an Office of Housing Program, where funding guidelines outline the conditions which must be offered to the tenant.

Rental rates were usually based on a percentage of income and varied from 20%, 65%, to the highest level of 87.5%, with 80% of income being charged in most houses. Charges above 20% of income included telephone, electricity, gas, water and food bills. One service described it to be "not rent so much. A fee for service more than anything." Another "hopes it covers the bills etc."

Each of the services were describing a very different basket of goods provided Therefore making a comparison between them is difficult.

The tenants who rent in the private market pay market rental and are responsible for bills as well. One community housing service contributes a share to the private market rent as these are 24 hour support households with a staff room.

Tenants who rent properties owned by the Office of Housing, including public housing, pay 20% of income in rent and are responsible for household costs.

One community housing service charges a flat rate of \$100.00 per week, that is \$50.00 for rent and \$50.00 for household costs. People on holiday pay only \$50 per week.

The community housing services were asked how they set rents and if charges included a charge for support costs. A number of factors, particularly funding levels, influence how the community housing services set accommodation

charges. Services often peg the charge to a percentage of their consumer's income.

- In three cases, the rental is clearly determined by the type of housing involved, i.e. public housing.
- Two make a separate charge for support, but couldn't remember what the charge was.
- Another said it does not charge for support as it is funded for this.
- Some services did not know the rationale behind their charges or if a component was included to cover support costs. In larger services, representatives were sometimes quite removed from the financial side of the agency and were not sure how the charges were arrived at.

Most community housing services are forced to recoup all of their costs through charges, as CSDA funding generally only covers staff wages. A number of services viewed the additional charges as an economic necessity in being able to provide high quality accommodation. One service recognised that there are inequities in the amount charged across their properties, depending on how they are funded, and another is forced to supplement the rental costs of its private rental properties.

Household Bills

In all cases tenants are required to pay towards the cost of bills such as telephone, gas, water, electricity, sometimes covering the bills in full, in part or according to some pre-determined amount. Eight services incorporate utility bills into the accommodation charge for all tenants. Another five services separate the bills from accommodation charges and they are paid by the household as they come in. Three of the community housing services, which usually incorporate bills into the accommodation charge, make exceptions for their more independent households, such as those renting in public housing or private rental.

In the services where rent and bills are usually combined in the accommodation charge, the bills component is an estimate and it is unknown if tenants payments towards bills meets, falls short of, or exceeds the actual cost of bills.

Costs and Services

None of the services interviewed knew the true costs of running their services. One service felt responsible for subsidising running costs, commenting, "on their restricted incomes, tenants couldn't possibly pay true rents in that area or cover the costs of utilities etc. Air conditioning, ducted heating, a spa, a sprinkler fire system and a bus attached to the household are essentials for this high support needs household".

A number of services contribute a share of the rental and household costs of properties, particularly in 24 hour support households. Most services contribute

a share of the telephone rental and work related calls and all staff are expected to pay for personal telephone calls. In high support needs households, services estimate that over 90% of phone calls are made by staff.

Household bill payments vary from service to service and household to household as follows:

- bills initially go to the houses and shown to tenants, but are actually paid centrally by the community housing service
- some households budget weekly for bills. Tenants receive and pay bills directly. They usually pool money for shopping, using a house-keeping account
- in two services, bills are paid centrally, except in a household with minimal support needs where tenants handle their food money and do their own shopping
- one service pays bills directly without having any input into budgeting and planning or sighting the bills
- One service has established House Operating Sub-Committees —which includes tenants, staff on duty and management representatives. This committee budgets, plans and arranges bill payments

Gardening

Tenants were generally responsible or encouraged to take responsibility for gardening in all but one case.

Where tenants are not physically able, or interested in doing gardening, and staff cannot take full responsibility, services said they assist households to arrange outside help with gardening. Costs associated with this would already be covered in the accommodation charge for eight services, however one of the services covers 24 hour supported households where tenants rent on the private market. These tenants would incur gardening costs in addition to their rental payment.

The tenants of four services which manage public housing properties, or similar, are responsible for gardening costs.

One service allocates responsibility for gardening to the house committee. Support staff and tenants do gardening as an activity only where tenants have high support needs. The house committee gets outside people to do the gardening and tenants bear this cost.

Security — Personal Property

Many community housing services have taken responsibility for securing tenants property by taking out Contents Insurance coverage.

- Seven do this at no extra cost to their tenants, although one was not sure if their policy covered their most independent, 'drop-in' households.

- One provides Contents Insurance coverage for its own properties. It's 24 hour supported tenants who rent on the private market, are encouraged to independently take out Contents Insurance.
- One has taken out Contents Insurance but asks tenants to pay \$25.00 per year towards this. The service only furnishes communal areas in its housing.
- One said the cost of Contents Insurance was prohibitive and it was up to individual tenants to take out cover for personal property.
- Two others manage DPD Group Housing properties. Tenants are encouraged to consider taking out Contents cover independently.

Tenant Input into Staff Selection

Community housing services were asked how support staff are chosen and if tenants had input in the selection process.

Six services stated they attempted to provide their tenants with a voice in staff selection. Several had tried more than one form of tenant representation and had worked hard to guard against mere tokenism or placing tenants in a situation that was degrading for them.

Beyond the efforts to provide opportunities, the services commented that there are always some tenants who don't want to take part in the formal staff selection process.

Services stated that the following are their staff selection procedures:

- three services conduct interviews and shortlisted candidates either meet tenants and the houses or a second interview is undertaken by the tenants. In these cases tenants have the final say
- one service has a policy that tenants be involved to whatever capacity they can. Strategies include providing tenants with training in preparation for interview, if they choose to be on the panel; including information evenings and meeting applicants for jobs
- one service, which provides housing to tenants with high support needs has a tenant advocate on the interview panel
- in one service interview panels consist of management committee members, staff and tenants
- another favours taking casuals on as permanent staff if they work well, and fit in with tenants and the philosophy of the agency
- in all other services staff are selected by service management.

Selection of Co-Tenants

Community housing services were asked how decisions are made about new tenants filling a vacancy and if current tenants take part in the decision making.

Since this research occurred the Dept. of Human Services has introduced a Vacancy Management policy and much of the control over tenant selection has been taken over by the Dept.

Vacancies in supported housing are rare for many agencies, with one service reported that it has never had a vacancy. In one service if a vacancy does occur, existing tenants are given the opportunity to swap rooms, before a new tenant is considered. New tenants generally come from DHS waiting list with the community housing provider providing a profile of a suitable tenant to DHS. One service which intakes from DHS will only take tenants with ties to its particular region.

Tenant selection was viewed as a difficult area for services who felt responsible for ensuring that households are compatible. To achieve this in practice, most would like to recognise tenants rights to have input into selection. At the same time, most services described the demands of the Department of Human Services as working in opposition to this, because DHS viewed community housing service vacancies solely in terms of numbers of heads and roofs. Only one service saw it had the absolute right to select incoming tenants.

Several services related difficulties created by inappropriate DHS referrals. The services reported that they felt they were under pressure if they refused DHS candidates for their vacancies. Services report that they are under considerable pressure from DHS to fill vacancies quickly and this can lead to tenant incompatibility. One service said that it attempts to slow down the process so that existing tenants in its housing will have a say. Another service holds tenants rooms for three months if they move out in case they need to move back. One service summed the situation up by saying "Compatibility is bullshit. It's a luxury services can't afford at the moment."

Pressure from H&CS to fill vacancies purely in terms of numbers and on the department's terms can have a detrimental affect on tenants already housed. The following is a graphic illustration of what can happen:

A service had 2 vacancies at the one time, one in each of two houses. H&CS had two clients to place, and it wanted them to move in together and demanded that one current tenant be moved out of one of the two houses, into the other house. The service had to decide which would be the most appropriate house for the 2 new people to move into, negotiate who should move out, and negotiate their moving into the other household. The service said, "H&CS can put certain pressure on us at times."

Another service told of prospective tenants referred by H&CS arriving at their office or one of their houses only to end up being shocked, angry or distressed when it was explained to them that they were there to consider the **possibility** of moving into supported accommodation. These candidates apparently had no prior preparation or warning.

A number of services said they have a trial period where the incoming tenant and the household can get to know each other and decide whether they are compatible. This consists of either:

- visits for meals
- informal visits to the house with support people, family or an advocate
- trial weekend stays
- three - six month trial periods

Household Rules

AMIDA believes that all tenants should have the right to have a say about house rules and how their households are run.

Community housing services with group homes with higher support levels stated they usually have regular, or 'as needed' household meetings. Some have house committees variously comprised of staff, advocates/ parents, management representatives and tenants.

These meetings were described as forums where anyone can raise any issue or problem for discussion. Services said that as a general rule, avenues exist for tenants to influence 'house rules'. One service commented that its tenants are not assertive and have difficulty taking up issues, even easily resolved issues. Services commented that tenants need encouragement and support in their involvement at this and every level within service to guard against tokenism.

TENANCY ISSUES

Residential Tenancies Act

Community housing services were asked if they believed the Residential Tenancies Act (RTA) covers the accommodation they manage.

- Four services knew that their housing came under the Residential Tenancies Act. They manage Office of Housing or similar properties, of which a condition of funding is that tenants must be covered by the RTA.
- Four services said their housing did not come under the RTA.
- The remaining five either were not sure if their housing came under the RTA.

In order to gauge attitudes regarding tenancy rights community housing services who responded 'no' or were uncertain if their tenants came under the RTA were asked – 'What would be good about tenants of your housing having full tenancy rights?'

The responses again highlighted the uncertainty around this issue :

- one service presumed its tenants had tenancy rights

- Another service thought that its tenants probably do have tenancy rights. This service works to all the National Standards and believes that choices and rights are paramount.
- A number of services believed that coverage under the RTA was not appropriate because their tenants are believed to have more rights under the current arrangements. One service perceived the benefits of coverage of the RTA to apply mostly to getting maintenance done.
- One service strongly believes that it is insincere, false and hypocritical to think that tenancy agreements could protect tenants. This service won't have people signing things they don't understand, believing that people don't and couldn't understand legal documents like that. The service stated that it is protecting tenants and a tenancy agreement doesn't give any protection that the agency can't give. "Tenancy laws protect tenants from landlords, we have to protect tenants from other tenants at times."
- Another service believed housing and support should be tied together and that the special needs and vulnerability of its tenants would make it counter-productive to have tenancy agreements. This service questioned what would happen if support was denied, because the provider couldn't cater to the level of need?

Community Housing Services who said or thought their tenants are not covered under the RTA were asked – "What would be bad, or what difficulties would there be if tenants of your housing had full tenancy rights?"

Most services raised difficulties in moving people if their rights were covered under the Residential Tenancies Act. The reasons for community housing services requiring the right to move people are summarised as follows:

- inadequate support in the household
- deteriorating health
- one tenant's rights impinging on the rights of other tenants, e.g. anti-social behaviour.

As an adjunct to the previous question, Community Housing Services who said they thought their tenants definitely have RTA coverage were asked if this had caused any problems or created any difficulties for them.

None of the services interviewed had experienced any problems.

Security of Tenure

On the whole, tenants of the long-term group housing are, or will be, long-term tenants of the community housing services. Some tenants have already been in residence with individual services for over 20 years. Several commented that if a tenant with continuing support needs who either wanted or was asked to move out, there was a dearth of alternatives available. Two

said they would not make tenants move out if they didn't have somewhere else to go. Another said that no matter how desperate the situation in a household, it will always take up to 6 months to find a suitable alternative placement. While almost all services said that they were offering tenants permanent accommodation, one service uses renewable 12 month leases and one uses an initial 6 month tenancy agreement.

All community housing services said that their long-term tenants were offered permanent accommodation. One offered their tenants "permanent accommodation, but not necessarily in the same room or house." All acknowledged that room swaps or swaps between houses had either arisen at times or could happen again.

Tenancy Agreements

All community housing services were asked if tenants were required to sign an agreement/contract/lease about accommodation conditions and/ or support.

Eight of the thirteen community housing services request that tenants sign 'accommodation agreements'. The remaining services do not have agreements on the basis that vacancies are rare, although one service conceded that it probably needs to establish one.

Only five services were willing to supply copies of their standard agreements all of which name the address at which the tenant will reside. Of the five agreements sighted:

- one specifically covers transfers from the stated address
- another covers the possible need for "a tenant to leave the house at short notice"
- one is a standard Residential Tenancies Agreement. The support side of this agency requests that tenants sign a 'New Client' and 'Individual Program Contract'.
- one service's Conditions of Occupancy is clearly written for tenants and refers to the service as 'landlord' and the tenants as 'tenants' and spells out the rights and responsibilities of both parties. This agreement makes reference to other documentation which covers support needs.
- two agreements are 'Shared Occupancy Agreements' which are said to be "agreements between the service provider and resident" which are "not enforceable by law". The purpose of these agreements is said to be to "establish a service relationship". These documents cover both tenancy type and support details.

Access

Community housing services were asked if all tenants had keys to their homes.

In eight cases all tenants had household keys, irrespective of the level of support needs. Responses from the remaining five were that tenants:

- did not have keys
- had keys in all but one household
- not everyone has a key. If tenants ask they get one. The reasons that, some tenants don't need them were because they either couldn't physically use a key or are never at the house alone. One tenant asked for and got a key, but would never use it to unlock the door. The service said it was a "self esteem" thing for him
- very few tenants have keys. Keys are usually hidden outside each house and all tenants know where they are
- no, only one tenant is physically able to open doors. Keys are left on the inside locks of external/ main doors for safety reasons as it would be difficult to get all tenants out of the house quickly in an emergency.

A lot of tenants were said to regularly misplace or lose their keys and community housing services generally expected tenants to pay for replacement keys.

In some cases, keys were seen more of a necessity for support staff as access to their workplace, but perhaps, more importantly, as access to a dwelling in case of emergency.

Privacy/Quiet Enjoyment

Depending on staffing levels, household size in long-term group housing generally ranges from two people to six people, but can be up to eight.

In almost all cases, tenants have their own bedrooms. One service said tenants have their own rooms unless they ask to share, however there have been two situations where tenants were required to share a bedroom and this was not by choice. The service states that the reasons for this were historical and that every effort was made to ensure privacy by partitioning the bedrooms. Where tenants do have to share a bedroom, the services say that they attempt to encourage tenants to stagger their routines and/or they have partitioned bedrooms too allow as much privacy as possible.

As in any shared household, busy periods happen around meal-times and when getting ready for, or returning from day placements or work. Most tenants have their own bedrooms to go to for quiet and privacy. Sometimes tenants have their own walkmans/radios/televisions etc. in their own rooms and therefore had control over the programs.

Most community housing services policy was for staff and tenants to knock before entering a tenant's room, however this practice is said to break down very quickly if a series of relief staff was necessary for a period. Two services mentioned they ensured tenants had privacy to receive phone calls etc.

Most community housing services encouraged tenants to have friends and relatives visit. One service said it encourages people to have friends stay overnight, with some notice. Two services asked that visitors ring before they drop in, or if tenants wanted visitors to stay for a meal they pre-arranged it in consultation with the other tenants. Most services said that tenants could take visitors to their bedrooms for quiet and privacy, but two commented that this wasn't necessarily the most appropriate place. Some properties had garden areas suitable for visiting.

Most shared housing is described as a hectic environment with limited opportunities for quiet and privacy. Support needs, the number of tenants and staffing levels determine how busy a household is. One-to-one outings for tenants as a break from the household are limited, depending on funding and staff levels.

One service considered itself to be in a fortunate position because its tenants had high support needs and therefore had good staffing levels. They also had exclusive use of a bus.

Method Of Accommodation Fee Payment

In twelve cases tenants pay their rent directly to the community housing service. There are two instances where a number of tenants rent on the private market or from the Office of Housing. In these cases, rental payments are made directly to a Real Estate Agent or the OoH. One manager of an Office of Housing Group Home, and responsible for the rent, says it supports tenants to pay the DPD directly, rather than collect the rental itself.

Nine services ask tenants to pay rent two weeks in advance. It was often explained as easier for both the tenant and the service because it is organised around the fortnightly pension. Two ask only that rent be paid weekly. One allows tenants to get into arrears as it invoices monthly, with payment due on the last day of the month.

One invoices tenants families as advocates, in the case of tenants with high support needs. Another said that bills go to the contact person for each tenant, this is almost always a parent.

In all but two cases, rental receipts are provided. Several services use a system of specially numbered deposit books whereby rent is paid into a bank account with the butt of the deposit slip serving as a receipt. Others give options such as cash payment with a receipt in return, or arrangements with local credit unions etc.

One does not give receipts. Another has a special recording system for rents i.e., a file for each tenant and rental payments are marked down.

Rental Bonds

Only one of the community housing services interviewed requires a bond when new tenants move in. The bond is the equivalent of two weeks rent. One service is looking at introducing a bond system, but would not allow this to restrict people's access to their housing. They realised 2 weeks rent is a substantial amount for a person on a limited income, so were considering a system where people would be asked to pay the bond within a certain period of moving in. Both services manage public housing properties. The Office of Housing (OoH) does not charge bonds for public housing rental and this may be in contradiction to OoH funding guidelines.

Maintenance

Tenants are one of the parties responsible for reporting maintenance problems. The degree of responsibility depends on staffing levels in each household. Tenants are expected to inform staff regarding maintenance problems so that staff can make a note of it, or reported it directly to the community housing service.

Services stated that the following procedures were:

- generally non-urgent maintenance problems are dealt with fairly promptly — either through the community housing service central office, or through house supervisors
- where house committees are established, repairs are dealt with by the house committee, where they have been established.
- One service has established a maintenance procedure with forms to be filled out etc., however, it reported that forms occasionally got lost on peoples desks.

After hours emergency maintenance was more likely to be organised directly by staff where they are on duty. More independent households are usually supplied with after hours phone numbers to either, the community housing service or the Office of Housing where it's relevant.

Property Damage

Services generally expect their tenants to maintain the general condition of the property they live in. Only one service, which manages public housing properties, asks new tenants to fill out a Tenancy Condition Report. One service said it's properties were either newly purpose-built or recently renovated, and any damage would be obvious so it didn't use formal Condition Reports.

Shared households, particularly higher support needs households, are very busy places where one would expect heavy 'wear and tear' and this was dealt with by the community housing services as follows:

- all services pay for repairs except for wilful damage

- all services expect tenants to pay for wilful damage to the property
- some services are prepared to waive wilful damage charges "once or twice", preferring to look at behaviour management strategies
- one service said that it was difficult to determine whether damage is deliberate or not, as it could be caused by the tenant's medical conditions such as epilepsy.

Refrigerators And Washing Machines (White Goods)

The majority of community housing services provide white goods such as refrigerators and washing machines in communal houses. Where these are supplied, the service usually repairs or replaces them. One service owns the white goods in seven of its houses and it will bear the replacement cost in all seven, but only cover repairs in five houses. The two households that pay repair costs are paying a lower rental, i.e., 20% percent of the pension. This service mentioned that, if there was deliberate damage to any white goods, they would expect the tenant to pay for repairs

Two others said they can sometimes provide refrigerators and/or washing machines, but that this wasn't included in the tenants leases and they will repair the equipment if it's possible but cannot guarantee replacements.

Tenancy Incompatibility

As in any shared housing arrangement, incompatibility and difficulties can arise in supported accommodation for people with intellectual disabilities. A number of services commented that when there was a problem of incompatibility or anti social behaviour, it takes between six months to two years to resolve the problem. If all attempts to resolve the problem fail, eventually the tenant will be asked to leave.

The following cases are some examples and how they are dealt with:

- A service worked with a person with difficult and sometimes threatening behaviour for almost 2 years before finally asking this person to move out
- One service said that if incompatibility or serious problems arise, it does its best to resolve these rather than evict people. The service described the case of a man with violent behaviour, endangering and frightening co-tenants. There was nowhere else for the man to go and his family didn't want him moved out. The service went significantly over-budget to increase staffing and after a period was able to negotiate with H&CS to get extra long-term staffing and long-term involvement of the Behaviour Intervention Strategy Team. It has made and still is making a positive difference to the individual's behaviour and to the situation in the household.
- a man with violent behaviour had become a problem for co-tenants who are afraid of him. H&CS was approached for resources to increase

staffing and work more closely with this man's issues, only to be told there's just no money. The service believes that if the problem can't be resolved, it could get to the point where the person has to move out. He will then be referred to H&CS.

Tenancy Disputes

Community housing services were asked how they defined a tenancy dispute and, how they are resolved. Tenants views on disputes are not represented here.

Two services said they hadn't really had any tenancy disputes arise, one nominated repairs, rent increases, inequities in the size of rooms', another said any tiffs between tenants on rights, through to physical violence, sexual abuse etc.

Most said that any tenancy issues would be resolved via their internal processes, beginning with house meetings, progressing through internal grievance procedures, then to external grievance options.

Two services use a series of written and verbal warnings, then follow through to the Residential Tenancies Tribunal if necessary, although one has never had to go to the Tribunal. One service had once employed a Tenancy Rights Worker and hoped to find the funds to reinstate this position. However, it was not an easy role for the worker, being both an employee of the service, and taking up issues about it's management.

Evictions

Community housing services were asked under what circumstances an eviction would occur and how evictions are handled.

The term 'eviction' was foreign to most services. However, most community housing services could foresee, or had already experienced, circumstances where tenants would be asked to move to another room or another household or out of community housing altogether. Only one had previously pursued evictions, and did so through the Residential Tenancies Tribunal, but hadn't pursued any in the past two years. A reason for eviction was cited as theft from co-tenants over a period of time.

Most services cited the following circumstances where individuals might have to be moved out:

- increased support needs due to deteriorated health to the point where the CHP cannot adequately support the person
- severe incompatibility, with the household, particularly ongoing violent or dangerous behaviour. These are seen as transfers to more appropriate accommodation, rather than evictions. They would become evictions if the moves were opposed by the tenants concerned. Most services believed their internal grievance processes were effective in diffusing and

resolving household issues or problems, thus averting the need for evictions.

- Only one service stated that they had evictions. The remaining 12 services stated that the closest they had come to an eviction was a decision by one to 'suspend' an individual until he went through a series of behaviour management programs. This person's behaviour problems were beyond the skills/training of the staff and at times a threat to both co-tenants and staff.

Community housing services stated they used outside skills and/or resources where appropriate or available. For example, requests for temporary or long-term increases in support hours funding go to H&CS, which may or may not be successful. Also one service said if serious issues arise it often finds the involvement of an independent person, such as the Guardianship Board is best, saying "everyone has to accept their judgment or decision."

Transfers

Most community housing services said they did not take room swaps lightly, but would consider them if for example, a tenant needed to move closer to the bathroom for health reasons, or to isolate disruptive behaviour by one person for the sake of the rest of the households. Services generally organise room swaps after discussion/consultation with tenants. One service said that it would never force a room swap if tenants did not agree, no matter what the circumstances. Another said it made the decisions to swap and then explained things individually to the tenants involved in the swap.

Separation Of Tenancy And Support Functions

Community housing services were asked if they saw any contradiction in their role of providing accommodation and support in relation to tenancy issues, and would tenants rights ever be compromised.

Only three of the thirteen services supported the idea, or had moved towards, the separation of tenancy and support functions. These services recognised difficulties in 'wearing two hats'.

The remaining services saw no problems in combining the functions, although two services recognised that this might be viewed by some as having too much control over people's lives, particularly where day placements are provided by the same agency.

Chapter 6. AMIDA's Proposed Model

AMIDA proposes that the most appropriate model is one where agencies are single service providers. We believe that there are distinct advantages in this approach. Firstly, it will lead to improved quality of life outcomes for people with disabilities. Secondly, it also means that people with disabilities will have access to a greater choice

and range of service delivery options. They will no longer be dependent on one agency attempting to meet all their needs.

This model has three elements

- 1. tenancy rights under the Residential Tenancies Act**
- 2. separation of housing and support functions and**
- 3. the use of support agreements .**

6.1 The separation of housing and support services

There are three main models which need to be considered here.

Model One - Single Service Provider

An agency which exists to provide one primary service to the community. It may well have strong linkages with a range of other groups and services but operates independently. For example, a agency may a provider of support only or a provider of tenancy management only but not both.

Model Two - Integrated Housing and Support Provider

An agency which provides both tenancy management and support services to people with disabilities.

Model Three - Brokerage and Linkages Service Provider

This model is where individual people with disabilities and their families may purchase a range of services which suit their needs. A case manager or broker will be employed to negotiate buying these services from either separate or integrated providers.

Why separate functions ?

Traditionally the combining of housing with support structures have created a situation where many people with disabilities have had their whole lives mapped out, monitored and observed in ways which many people without disabilities would consider to be intrusive and an invasion of their civil liberties.

The Victorian IDSP Act states this clearly in s.5(1)

"it is in the best interests of intellectually disabled persons and their families that no single organisation in providing services to intellectually disabled persons exercise control over or most aspects of an individual's life "

The argument for separation of these services is simply an extension of this philosophy - that no one agency should attempt to provide for all the needs of individuals.

Recently the Victorian Office of Housing (OoH) separated the roles of housing provision and landlord functions from the function of support services. This division already occurs within the SAAP and Housing and Support Program, and also reflects the belief that combining a number of functions within one agency does not lead to quality service provision for individuals.

As previously discussed, the group home model has been adopted as the predominant residential services model for many people with disabilities. This model has not served the individual choices and preferences of many people with disabilities well.

It has locked people into circumstances where in order to receive support they must enter group homes or vice versa. Once in this system, it can be very difficult to get the individualised supports that a person may desire or require.

Difficulties which can arise when housing and support are provided by a single agency can be as follows :

- it creates confusion and conflict over the roles and responsibilities for the agency, its staff and the people who live in its housing and it disguises the differences in power and status between staff and tenants.
- there are expectations about how people with disabilities will live which only rarely approximate the set of expectations to be found in more natural living environments. For example, learning to live intimately with a large group of people is rarely an expectation of apartment living. Judi Chamberlain (1989) challenges professionals to try to live with a group of ... people that they did not select.
- conflict occurs when the agency serves to function as a service provider and a landlord at the same time. There will be a temptation is to combine and confuse roles and to design programs which make receiving housing contingent on compliance to the agency's values and practices.
- when a regular landlord manages a property they are bound by residential tenancy laws. However, this is not the case in group homes where each setting has its own in-house expectations and regulations (i.e. lights out at 10 pm)
- it discriminates against tenants who have less rights than the rest of the community by the fact of their disability and place of residence.

A separation of housing and support functions would encourage a service system that incorporates mainstream or regular services which other members of the community also use. It seeks to take people with disabilities away from the purely disability service network and began to develop relationships and contacts within the community.

Taylor (1987) has found that people with disabilities were generally accepted by other community members only after positive experiences have occurred on a personal level first. Therefore he argues that community integration must occur before community acceptance.

The advantages of separation housing and support are as follows

- it allows for greater clarity of roles around support, tenancy and housing needs
- it enables individualised needs to be met through a variety of responses
- people with disabilities will have their housing not contingent on their support needs and integrated housing services
- people with disabilities may be able to move to different housing options/choices as their needs/wishes change just as others in the community are able to do.

6.2 Barriers against separation of housing and support services

Separation of housing and support services may be difficult to achieve due to a mixture of factors. These include the following

- government policy and funding formulas which are designed to meet the mass numbers of groups of people rather than promoting a service system which allows for flexibility and innovation in meeting individual needs. This is a problem faced by all community groups. However, this does not mean agencies can deviate from its mission of promoting the rights and interests of particular groups of people.
- government political agendas which aim to shift responsibility for its citizens who require additional support systems to the family and the volunteer sector. Again this could obscure the agency ideals but the ideal is still worth maintaining despite the current climate.
- difficulties in attempting to integrate and encourage people with disabilities into mainstream community life in a manner which both recognises and accepts disability but does not reinforce negative and stereotyped images of disability. New approaches in service delivery are constantly evolving to assist in this area.
- confusion and concern over how agencies and staff may 'protect' people with disabilities are not exploited and how to nurture self esteem and to engage in learning opportunities. This situation may lead to an agency developing a series of mechanisms which mean that people with disabilities are not allowed to 'fail' as this may reflect badly on the agency and the staff involved. An outcome of this approach is that many people with disabilities may never face any real life consequences for their actions and behaviours. This severely limits the opportunities for

learning a range of skills which occur as a result of natural consequences. It also fails to appreciate that most of us had to learn through our mistakes. Decision making and problem solving are skills which have to be learnt.

- cost factors - it is cheaper to have one service do everything.

6.3 What are support and tenancy functions ?

The roles of housing provision and support services are quite separate and can fairly easily be distinguished as follows:

(A) What are support functions ?

There are many different types of support services available and just as many agencies which offer specialist services. The range includes attendant care, respite, recreational activities, advocacy, education, training, personal development, physical therapy, communication and information services and so forth. (see support types)

Services may be provided through providers who are disability specific, government, community based and those which are available to any community member who does not have a disability.

An essential component of a support service is working with the person with a disability, their families, advocates and others to develop services which are realistically geared to the needs and preferences. This may be challenging with some people and may require trained staff to sensitively and over time work with a person to come to terms with what their supports may be.

There may well be people who believe or choose to function without any supports and this must be taken into account and assessed in terms of their risk to themselves and possibly the community. However, a major part of the support agencies role is to negotiate these types of issues. People cannot be forced to participate in services but they must be informed of the consequences of their decisions in ways which respect their views and opinions. It will always be important to clarify the values, responsibilities and roles of all concerned in support roles. A negotiated support agreement is very useful in this process.

Types of support

Daily Living Skills

- personal care and hygiene
- shopping, cooking and meal planning
- household cleaning and room upkeep
- money management and budgeting

Community Access

- leisure and recreational activities
- learning about what is available in the community
- getting around, transport issues
- learning about the local neighbourhood

Personal Support

- getting help in the community
- getting specialised individualised help/support
- learning about how advocacy works
- keeping in touch with family, friends and significant people
- developing some decision/choice making skills

Social Development

- developing confidence and self esteem
- learning about in/appropriate social behaviours (legal and illegal)
- developing communication skills (listening and speaking)
- learning about relationships
- learning about your rights and responsibilities

Work/Training and Education

- daily contacts between work etc.
- learning about opportunities for further training or education
- support to access other services

Political /advocacy skills

- learning about rights and responsibilities
- access to groups which actively lobby or campaign for personal and human rights
- learning about the governance of the state and bureaucracy

(B) What are tenancy functions ?

This relates to all activities which revolve around housing and property management . It will include the purchasing and leasing of properties, signing of tenancy agreements, condition reports, rent collection, arranging for repairs and property maintenance, and tasks associated with other residential tenancy legislative responsibilities.

Landlord role

Some agencies have never undertaken this role and may feel uncertain as to how to enforce the residential tenancy laws. This is complicated when agencies have been both housing provider and the support service. Much value may have been placed on the personal relationships between staff and the tenants and any changes which imply of more formal relationship can create some tension.

Tenancy management issues will have always occurred in supported housing situations but they may never have been dealt with through the RTA. However, the point of separating the service functions is to clarify the rights and responsibilities of service provider and tenant. It may be that some tenants will have to learn new ways of handling their tenancy issues.

Problems and evictions

It must be accepted that these will occur. Some evictions cannot be avoided and some are justified. When a person continually or seriously breaks the stipulations of a lease, and an agreement cannot be reached, then an eviction is usually justified.

Refusal to seek treatment or to attend programs is not justification for eviction, non payment of rent is.

Types of tenancy functions

Property Administration

purchase or leasing of properties
rental collection
issuing of receipts for rental and any bonds/security deposits
insurance for property
maintaining fire safety requirements
capital upgrading

maintenance issues

keeping the property in a state of clean and habitable condition
i.e. painting, decoration, workable appliances and fixtures
arranging any repairs which may need to occur according to the RTA provisions
urgent repairs such as breakdown of appliances
paying for all fair wear and tear including damage/breakage's as a result of disability

Tenant issues

- selection of nindent360Tenants Advice Services

6.4 Implementation processes

Recently major changes occurred within the housing sector in Victoria. Regional housing groups have been created, and there has been a re-structure of how housing and support services will be provided. Agencies will now be solely responsible for either housing management or support services. This new direction heralds probable changes for the disability sector to take account of in the future.

These new forms of housing management and support services are just beginning to evolve and there is much to explore and learn. New organisations have appeared and new working relationships, partnerships and contacts will occur as a part of this process. However, the work which is currently being undertaken will be able to provide other agencies, groups and individuals with valuable information about how to prepare for any change in service delivery mission and activities

AMIDA acknowledges that many agencies may not recognise that it is necessary to change their current service delivery approach. Many agencies are already providing services which enhance the rights and dignity of people with disabilities in very empowering ways. Many people with disabilities are currently satisfied and happy with their present living arrangements.

While this is true, AMIDA believes that there is much to be gained from new approaches and ideas for enhancing the quality of life options for people with disabilities.

Change is a natural part of organisational life. Yet, the implementation of change is often viewed with apprehension, particularly if the change has come from a source which is external to an organisation. It may cause tensions and uncertainty for those involved. How the change process is handled is crucial to its outcomes. Therefore, before changes are put in place, an agency may need to engage in a planning process which can set out the parameters of the change and what methods it will use to implement any changes.

The purpose of the next section is to provide some ideas and suggestions on how agencies may explore a change in their service delivery models.

6.5 Principles for service delivery

AMIDA believes that agencies must adopt a service delivery framework which has as its core the aims of providing individual choice and empowerment of people with disabilities.

In a Dept. Of Human Services memo "***Tenancy issues in community based supported accommodation services " (1994)*** (formerly H&CS) a number of principles were set out for Departmental staff to follow. These are

- 1. Clients residing in community based supported accommodation services are either residing in their own homes or in a home like environment established by H&CS or a funded agency and receive support services to allow them to do so from HCS or agency staff*
- 2. Clients should have rights of privacy and security, but within the context of requiring support.*
- 3. Wherever possible, clients should not be required to move out from their home. However, under certain circumstances some clients will be required to move but this should only occur after all other strategies to resolve problems which aim at keeping the client in the residence have been exhausted.*

4. *H&CS has a responsibility to ensure that clients are able to live in the community in a stable and safe environment and must ensure that their duty of care to the client be fulfilled at all times.*
5. *Clients must have an avenue for appeal and/or grievance process must be in place to deal with matters relating to either the provision of support or the provision of accommodation*
6. *Clients must be provided with information regarding circumstances under which they may be moved and the details of the process involved".*

AMIDA proposes that the philosophy and intentions enshrined in the following Acts of Parliament (Commonwealth and State), - Disability Services Acts, Anti Discrimination Act, Equal Opportunities Act, Human Rights Declarations, Intellectually Disabled Persons Services Act serve as a backdrop in formulating agency principles and policies.

We propose the following set of suggestions for the an agency who may be re-examining their agency visions and directions.

1. services should be person centred - which means responsive to each individual's needs
2. focus on individual's strengths and aspirations
3. develop an empowerment approach whereby individuals are encouraged to be actively involved in their service plans and have input into agency policy and decision making processes
4. to be flexible and able to incorporate changes as the individual requires it
5. ability to incorporate community and family/peer supports in responding to an individual's needs.
6. can respond to special individual needs e.g. linking into relevant external support such as substance abuse programs
7. to have a co-ordinated approach to service planning for individuals who may be involved in a number of activities and programs.
8. There must be accountability of the agency to the people who use their services.

6.6. Steps

The agency will need to decide what service delivery model that fits best with their mission and the services they currently offer. For example, they may describe themselves as any of the three models outlined previously in this report.

An agency which provides both services but which will develop a structure which internally separates the roles of housing and support on a management and staffing level However, even where one service does provide a range of functions such as tenancy management and support, it is possible to separate out the roles and tasks as a means on ensuring clarity of service delivery roles and functions.

Each model assumes that agencies will have the following

- a mission statement which sets out the agency's vision for itself
- a statement of series of objectives which the agency aims to achieve
- a statement which clearly states what services or programs they provide
- a statement about its service standards and how these are reviewed

Step 1

Agency will decide which service delivery model it will base its operations on. Reference to the models outlined previously may be useful.

Step 2

Agency then develops its service delivery framework or philosophy as relevant to the model it will use. The agency may chose to state its key principles in relation to the following issues - role of individuals in choosing or deciding their service options, how agencies view the empowerment of people with disabilities

Step 3

Agencies will need to explore their organisational structures. For example, if an agency decides to be a provider of both housing and support, it will need to implement a structure that can internally re-define the roles and responsibilities in a way that clearly sets out who is responsible for tenancy and housing management issues and who will be responsible for the support needs of individuals. It may be best to draw a picture of how this may look and this can assist in working through the relevant issues. Organisational policies and processes would need to be reviewed in light of which model the agency chooses to utilise. For example, there will need to be policies on what practices the agency will follow when it deals with potential evictions, the processes to be used to co-ordinate linkages between housing and support service which do not infringe on peoples' rights to privacy.

The agency could use a standard Support Agreement which details the following issues - what support is provided, how, where it will occur and what basis.

Step 4

The agency will need to develop a model to foster and implement change. This may be done by asking others who have experience to speak to the agency, reading relevant information, drawing up resources, materials and ideas which have already been developed.

Step 5

An education process may need to occur within the agency to inform staff and individuals, family members and other relevant groups of any proposed changes and what this will mean in practice. For example, you may need to explain what a tenancy agreement is and how it is to be used.

Appropriate resources are

AMIDA, has videos available which explain the RTA and how it works. AMIDA conducts training sessions for groups in the area of tenancy and support rights.

Tenants Advice Services provide a range of information and advice.

Step 6

It may be wise to consider the initial months of change as a time to trial and reflect on the agency's approach to its service provision. Any change will be accompanied by some anxiety, confusion, resistance and uncertainty. However, there are normally always benefits in re-examining beliefs and methods or practices.

6.7 Agency Protocols to link housing and support services

Regardless of how an agency may decide to structure its service delivery functions, it will require processes which provide guidance for the organisation on a range of issues. Generally all agencies have operational/policy manuals which list the agency's mission, objectives, service delivery activities and its policies and practices.

An agency protocol is used to establish working agreements with other agencies. A protocol can set out principles, tasks, methods, process and policies of the working relationship. It is also useful in setting out the roles and responsibilities of each agency.

Such processes are common within the community sector. However, they are often on an informal basis and this can lead to difficulties in communication.

In the context of an integrated agency which provides a number of functions, a protocol may be very useful in setting boundaries by documenting the roles and responsibilities of each service delivery team. This practice would greatly assist staff in an agency, and individuals who receive services to understand who performs what tasks and functions.

Improved communication and clarity of purposes can occur if protocols are developed which is extremely beneficial as it will improve the quality of the services being provided.

The following is a list of issues which may require protocols:

- how service delivery will enable integration and participation of people with disabilities into the community
- the roles and responsibilities of each agency will be
- referrals processes to agency
- confidentiality and privacy in relation to information exchange about individuals
- mechanisms to incorporate change in service delivery as individuals need change
- agreed processes of how to work with individuals whose needs may be challenging
- grievance and appeals mechanisms on issues which are not covered under residential tenancy legislation.
- on site crisis support
- strategies to encourage tenants to contact prior to a crisis - even with small problems (more likely to seek support in crisis)
- how problems between tenants and landlord will be mediated
- contingency funds for -deposits, rent insurance damage repair
- evictions policy, including process prior to sending eviction notices

how to respond to problems immediately

strategies/responses on how to hold tenants responsible for behaviour and its consequences

support justified evictions

advocate for tenant rights - tenants will still have rights even they though being evicted

- the processes around providing a tenant with information and referral on - new property, lease agreements, property repair issues,
- who are the single points of authority to contact for either daily events and emergency times.

There are a number of ways to set out protocols or agreements. For example the Commonwealth Disability Service Standards has established principles which aim to enhance greater quality of service delivery for people with disabilities. These are useful as a reference point when framing inter agency agreements and communication arrangements. Another valuable resource is the Protocol Pal which is available on the Internet. This is produced by the Regional Housing Council Network. It has a listing which includes topics such as agreements between tenants and service providers, access/referrals and

housing policy, responsibilities and roles and so on. It can be accessed on <http://www.infoxchange.net.au/pp/>

6.8 Support Agreements

A support agreement is a tool which can be used to identify an individual's particular support needs to plan how support can be provided. Agreements such as these are frequently used in the community services sector as part of a process whereby, service providers work with individuals and their families to establish goals and to achieve outcomes.

Support agreements can be used to set out the type of support to be provided, how it will be occur, and under what conditions. The purpose of developing a formal document is to assist an individual and an agency to work together in clarifying the roles and responsibilities of both parties and to provide a reference point for interventions.

AMIDA proposes the following support agreement draft which agencies may base their own agreements or service contracts around. This is intended as a guide for discussion and debate. AMIDA would welcome any comments or feedback on its proposal.

SUPPORT AGREEMENT

Name:

Support Agency:

1. Type of support to be provided.

(Personal care, recreation, social development)

2. Support goals

3. Complexity of support needs are

SUPPORT AGREEMENT

4. Duration of support

5. Intensity of support

6. Place of support

7. Times support is to be provided

8. Support worker is

SUPPORT AGREEMENT

9. Reasons why support may be stopped

Individual service user Support Agency

10. Ways to change this support agreement are

11. Complaints process

12. Independent advocacy groups are

13. Review dates

SUPPORT AGREEMENT

Consent and signatures

I have read this agreement and had it explained to me.

I understand that I have rights and responsibilities in relation to this agreement.

I have been given a copy of this agreement.

Guardians/advocates must also be given copies of this agreement and had it explained to them.

Signed By

Name: _____

Signature: _____

Guardian/advocate name: _____

Signature: _____

Support Service: _____

Name and position: _____

Date: _____

Chapter 7. Conclusion

For people with disabilities to achieve equality with they need to have access to the same services and legislative protections which are available to other members of the community.

Furthermore, AMIDA believes that people with disabilities should be entitled to a greater range of housing and support services than are currently offered at present and which will enhance their quality of life. The models of support living services and community membership discussed in this report discuss how this approach can work.

The move away from dominant models of service delivery is to emphasize not only the individuality of each person but it also aims to assist with their integration on a personal level into a local neighbourhood.

The model which AMIDA proposes is;

- that people with disabilities who live in supported housing should be given tenancy rights under the Residential Tenancies Act. The processes to achieve this aim are not difficult and will better meet the current needs of people who live in supported housing.
- individualised services and supports can occur and can be successful tools for integration.
- that a separation of housing and support functions is an important step in this process.

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Resources

- AMIDA information , videos and consultation of range of housing ,tenancy and support issues
- Disability Service Standards - Commonwealth Department Of Health and Family Services
- Protocol Pal - Regional Housing Council Network

It can be accessed on <http://www.infoxchange.net.au/pp/>

- Tenants Advice Services
- Office of Fair Trading standard Residential Tenancy Agreement.