

Residential rights for people living in Community Residential Units

Disability Act 2006

Note: This information sheet must be read in conjunction with Information sheet 5 - Residential rights for people living in residential services.

Introduction

The *Disability Act 2006* ('the Act') becomes fully operational from 1 July 2007.

The Act reaffirms and strengthens the rights and responsibilities of people with a disability. The Residential Services provisions in the Act have been developed to create specific rights for people living in residential services while enabling disability service providers to fulfill their obligations.

There are additional provisions which apply only to Community Residential Units.

What is a Community Residential Unit?

A residential service is only called a Community Residential Unit (CRU) when it is declared as one by the Minister for Community Services. The Act does not contain a definition of a CRU, however, a decision about whether or not a residential service should be declared will be based on the service meeting criteria determined by the Department of Human Services.

What additional provisions apply?

The main differences that apply to CRUs are:

- detailed provisions regarding residential charge, the method of payment and notice of any increase in the charge
- details of the capacity to appeal to the Victorian Civil & Administrative Tribunal (VCAT) in some situations regarding the residential charge
- where a resident needs to be moved (for a variety of reasons), and they do not agree to the move, the disability service provider must issue a notice
- in most situations a Notice of Temporary Relocation (NOTR) will be issued first to enable time to resolve the issue that led to the move being required
- a Notice to Vacate (NTV) may then be issued if the situation cannot be resolved
- an NTV may be issued in other limited circumstances (without previously issuing a Notice of Temporary Relocation).

What is a residential charge?

The disability service provider may charge for the provision of residential services. In most cases that will involve payment of a rent component but may also include a services component (food, utilities etc). The disability service provider must issue a receipt when requested for any payment and give at least 60 days notice of an increase.

If the disability service provider reduces any service from a service component (eg they no longer will buy food out of the charge) the residential charge must be reduced accordingly.

What if a resident disputes the residential charge?

Any resident is entitled to appeal to VCAT if they have a dispute about a reduction in service provided (and no reduction in charge) or a proposed increase in residential charge.

Do notices have to be issued for every move?

No, in most cases the issuing of a notice will follow a process where the house staff, possibly with help from specialist services staff, have sought to resolve the issue through discussion and agreement with the resident, other residents, families, advocates and/or others as appropriate.

What is the notice period?

For a NOTR the maximum notice period is 90 days, during which time staff need to try and resolve the situation to enable the person to return. If more time is needed another NOTR may be issued. If it is clear that the person should not or cannot return, a NTV may be issued.

For an NTV, various periods of notice are described in the Act, depending on the reason for the notice. Service providers should familiarise themselves with these different notice periods.

Are there templates for the notices?

Yes, Disability Services Division has developed template notices for the various reasons and timeframes. All CRU residential service providers must use these templates.

Who should receive a copy of the notices?

All residents should receive a copy of any notice. In addition, a copy must be given to a guardian or an administrator, if appointed. If a person does not have a guardian or administrator, the copy can be given to a family member or a person of the resident's choosing who can assist them with understanding the content.

Note: The Secretary DHS and the Public Advocate must also be advised when any NOTR or NTV is issued.

What are the appeal mechanisms?

If a resident disagrees that a NOTR should have been issued or they have any concern about the decision, they may make a complaint to the Disability Services Commissioner.

If a resident believes an NTV was incorrectly issued, was not issued in accordance with the Act or that the grounds on which the notice was issued were not established, they may appeal to VCAT within 28 days of receiving the notice.

Where to get further information about CRUs?

Disability Services Division, Department of Human Services

Telephone 1300 366 731 (9am to 5pm, Monday to Friday)

TTY: (03) 9096 0133 (for people who are deaf or have a hearing, speech or communication impairment)

Email: disability.legislation@dhs.vic.gov.au