



Submission to Supported Independent Living (SIL): What does good look like?

Public consultation to help inform a possible 'commissioning' approach for part of the SIL market Consultation paper

October 2026

The Public Advocate has approved this submission. It is a public submission.

OPA acknowledges the Traditional Custodians of the land on which we work and live, and that sovereignty was never ceded.

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About the Office of the Public Advocate

The Public Advocate is a Victorian statutory appointee. The Office of the Public Advocate (OPA) is independent of government and government services and works to safeguard the rights and interests of people with disability.

The Public Advocate has functions under the *Guardianship and Administration Act 2019* (Vic), the *Disability Act 2006* (Vic) and the *Medical Treatment Planning and Decisions Act 2016* (Vic) which relate to promoting the independence and human rights of people with disability and protecting people with disability from abuse, neglect, and exploitation. To fulfil these functions OPA provides a range of critical services for people with cognitive impairment or mental illness, including guardianship, investigations, advocacy, medical treatment decisions, advice and education. In 2024-25, OPA was involved in 879 new guardianship matters, 280 investigations, 401 cases requiring advocacy, and 501 Medical Treatment Planning and Decisions Act matters. OPA runs an Advice Service which provided 9,149 instances of advice or information during 2024-2025.¹

OPA provides advocacy on residential rights for people in specialist disability accommodation, people subject to compulsory treatment orders and undertakes systemic advocacy with a focus on how policy and legislation impact people with decision-making disability.

OPA is supported in its advocacy work by approximately 400 volunteers across three volunteer programs: the Independent Third Person program (ITP Program), the Corrections Independent Support Officer (CISO) program and the Community Visitors program.

OPA's Lived Experience Advisory Committee comprises experienced self-advocates with different disabilities, expertise and interests and they meet monthly to provide input into OPA projects, programs and systemic advocacy.

Human rights approach

This submission applies a human rights approach that:

- holds that all people with disability have the right to enjoy equality of opportunity and to effectively participate in, and be fully included in, society
- recognises that most challenges experienced by people with disability are a result of disabling systems and environments, rather than being due to an inherent 'lack' in the individual
- considers impairment as an expected dimension of human diversity
- seeks for people with disability to be supported and resourced to have the capabilities to lead a dignified and flourishing life.

¹ Office of the Public Advocate, [Annual Report 2024–25](#) (2025).

Introduction

OPA welcomes the opportunity to explore the potential for improved participant outcomes and scheme sustainability that is presented by the concept of SIL commissioning.

To provide context for OPA's comments, the first section of this submission includes a description of OPA's role, responsibilities and safeguarding-driven work with people with disability. It also provides relevant detail about the perspective OPA brings to this consultation, which stems from OPA's understanding of the common situational vulnerabilities that people who are 'at-risk' often share.

The submission will then provide responses to a selection of questions posed by the consultation paper on the topics of participant choice (question 5), safeguards (question 3), innovation (question 4), provider sustainability (question 6) and participants (question 1). The questions are answered seemingly out of order to better articulate OPA's overall position on 'SIL commissioning'.

Context and clarifications

The OPA context: a 'pointy-end' perspective

OPA appreciates that there are many people receiving SIL supports who are satisfied with the market as it stands and this group of participants do not require additional (potentially choice limiting) commissioning interventions. However, as a provider of last-resort safeguarding, OPA works with people who are perceived to be 'at-risk' of serious harm and well-understands the potential safety and wellbeing risks SIL-eligible participants can experience.

OPA's frontline experiences with clients who are NDIS participants regularly involve difficulties finding appropriately skilled SIL providers willing and able to support the person. This may be because SIL services believe:

- the NDIS funding package is insufficient to enable the delivery of a safe service
- the participant poses unacceptable occupational health and safety risks to their staff
- the specialist skills required are simply not available in the region where the person lives, or,
- for another reason.

In short, OPA's public guardianship program works with many people who 'the SIL market' has failed.

However, OPA clearly recognises the direct relationship between an individual participant's flourishing and having real choice about appropriate services. To this end, a shift to a commissioning approach to SIL provision would significantly curtail both participant choices and safety and must be avoided.

Clarifying ‘SIL-commissioning’ types

Broadly speaking, OPA would welcome enhanced government efforts towards future planning and market stewardship that seek to both promote the range of appropriately skilled providers available to participants and limit opportunities for providers to exploit people with significant decision-making disability. In this submission, OPA focuses on the potential benefits of commissioning in the sense of ‘service procurement’.

Service procurement would involve a direct contractual relationship between the Commonwealth Government (at the appropriate level) and the selected (commissioned) SIL service provider organisation. It is this ‘procurement’ interpretation that holds the most potential for improved participant wellbeing outcomes among the people OPA works with, because the current SIL market clearly requires additional scope, flexibility and skill specialisation to safely support them.

OPA supports other government efforts relating to future planning and market stewardship, which may fall within the broader definition of ‘commissioning’ used in the discussion paper. However, OPA does not consider these activities to provide an entirely new opportunity for service improvement. For clarity and readability, this submission generally uses ‘procurement’ when referring to the purchasing and contracting of services. The broader term ‘commissioning’ is retained where relevant to the discussion paper’s terminology or scope.

Question 5: Participant choice

How can effective participant choice and control be enhanced, including in regions with smaller populations?

For participant choice to be enabled to the extent needed to produce good support outcomes and promote scheme sustainability, the NDIS market requires appropriately skilled, specialised, financially viable service providers with capacity to cater to, and ideally slightly exceed, participant demand.

OPA recognises that cultural safety is fundamental to the human rights of Aboriginal and Torres Strait Islander people, and people from other communities that experience marginalisation or systemic disadvantage. Genuine choice requires access to culturally safe SIL supports, including services owned, governed and operated by members of the communities they serve. Procurement targeted at under-served SIL populations (or inappropriately served SIL populations) will ultimately reduce the intensity of supports and restrictive practices they require. In OPA’s experience this includes people with a range of complex and specialised support needs, people unable to access culturally safe supports, and people living in regional, rural and remote areas. OPA’s experience is that where people are appropriately and skillfully supported, they have better life outcomes and their interactions with the justice system, emergency services and acute mental health services are significantly reduced.

True participant choice of a SIL provider, which often involves a significant power imbalance and risk for a participant seeking a better service fit, may also require fully accessible supported decision-making services.

OPA notes that participant free choice acts as a preventative safeguard. SIL procurement under a limited commissioning approach that is targeted only to under-served, SIL-eligible, participant cohorts will necessarily make these participants safer.

Question 3: Safeguards

How should SIL supports protect the safety, health, wellbeing and rights of participants?

As discussed above, addressing ‘thin markets’ and providing SIL support choice for under-served participant cohorts will increase safety among SIL users. If this is combined with additional advocacy around housing and living options, participant safety will be further enhanced as currently under-served participants move to more skillful and well-matched support providers.

OPA guardians stressed that government procurement of ‘last-resort SIL services’ (in tandem with accommodation where a person is homeless) would be of significant safeguarding benefit to the scheme’s most ‘at-risk’ participants. OPA has long-advocated for the NDIS to include a ‘last-resort’ service provision element to its system of disability services. OPA believes this to be essential to ensuring that in a crisis, NDIA’s duty of care towards participants can be met. In practice, when appropriate daily living services cannot be engaged, participants with significant support needs can end up in hospital for social welfare reasons rather than a healthcare imperative. These social admissions can be long and participants may be subjected to additional restrictive practices in response to their distress. OPA is also all too familiar with the prison pipeline that stems from unmet disability support needs, including situations where people lose functional skills and become institutionalised which likely increases the cost of their supports following extended stays.

Last-resort SIL services may also enable participants to exit other institutional settings earlier (for example prison, remand, or acute mental health settings) reducing the impacts of institutionalisation and need for restrictive practices. At the very least, participant wellbeing outcomes would be significantly improved by avoiding additional stays in correctional or health settings.

OPA notes that there are 2 crucial elements required by a ‘last-resort’ SIL service. First, that the provider contracted to provide ‘last-resort’ SIL services must accept participants that the NDIA directs it to support. Second, the NDIA should never allow a person to remain in a ‘last-resort’ service indefinitely. Instead, they should use their close relationship with procured service providers to better understand the needs of participants who end up in crisis and seek to meet them.

While highlighting the potential benefit of procurement for increasing the choices of under-served participants, OPA stresses that procurement should not also become the preferred option for mitigating problems associated with undue influence by SIL providers. It is inappropriate to impose a ‘choice-limiting fix’ when other ‘choice-enabling’ options are available and many SIL participants can safely navigate their service options. Instead of using procurement to limit SIL provision to well-known ‘trustworthy’ providers, the mitigation of undue influence over participants belongs within NDIA’s planning and administrative functions and, where necessary, by ensuring participants have access to independent supported

decision-making services (in line with Australia's commitments as signatory to the United Nations Convention on the Rights of Persons with Disabilities).

Question 4: Innovation

How can innovation by SIL providers enhance the quality of SIL supports and outcomes for SIL participants?

There is enormous potential for improvements in both scheme sustainability and participant outcomes stemming from innovations enabled by a targeted and exploratory SIL procurement approach.

As described above, OPA recommends that the government should approach SIL procurement with the goal of meeting the needs of under-served participants – leaving positive interventions into the established SIL market to more gentle market stewardship approaches like pricing structures, registration and regulation.

The flexible, unique funding and contractual relationships enabled by targeted procurement should be codesigned with potential service users or members of the targeted population. These arrangements should be time-limited and evaluated. The close relationship between the government and the contracted provider should be leveraged to better understand what skills, specialisations, and models of care work best to promote good outcomes in the target population.

This could occur alongside discovering what types of funding arrangements and skill requirements support under-served populations, for example, people with dual disability, people with degenerative illness, people in regular contact with the justice system. Procurement relationships could be used to experiment with different models of support provision that are not well supported by current SIL funding arrangements.

Like the Summer Foundation's research into the cost savings possible from using Independent Living Arrangements (ILAs, also known as ILOs) instead of 1:3 SIL², OPA suggests that increasing the range of alternative models of support has the potential to further enhance scheme sustainability and promote individual participant outcomes (due to increased flexibility and tailored support).

Question 6: Provider sustainability

What's needed to ensure that SIL providers are sustainable?

OPA is well aware that provider sustainability is integral to good participant outcomes. From this perspective, OPA suggests that the insights gained from a grounded, co-designed, exploratory approach to meeting the needs of under-served populations will help to improve provider sustainability in the longer term as governments gain greater insights into the types of costs associated with different populations and best-fit service models.

² [Summer-Foundation-Moving-Out-Moving-On-Report.pdf](#) June 2025, p 34.

OPA suspects that for some populations, especially those who would benefit from having continuity of care in the community, regular periods of acute health care or justice interaction can impact a SIL providers financial viability.

Question 1: Participants

Which SIL participants could benefit most from additional government oversight of planning, delivering and monitoring of SIL supports?

The under-served SIL-eligible participants who OPA are most familiar with include:

- First Nations people seeking a choice of culturally safe SIL providers, including Aboriginal and Torres Strait Islander community-controlled providers.
- People in regional areas with complex support needs, often including behaviour support needs
- People with drug and alcohol dependencies
- People in regular contact with the justice system
- People with dual disability who receive mental health services

The ‘thin markets’ of regional and rural areas can result in poor participant outcomes when participants are forced to relocate to access SIL supports, leaving social supports and losing established local connections with hospital or mental health services.

As mentioned above, procuring ‘last-resort’ SIL supports across a good range of population centres will ensure that the most vulnerable members of our community have somewhere to go in a crisis.