



Specialist Disability Accommodation (SDA) and Residential Notices

Information for **owners and mortgagees**

The information is a summary only. For more detailed information you may need to call OPA, Consumer Affairs Victoria, or see a lawyer.

What is the purpose of this fact sheet?

The purpose of this fact sheet is to inform the **owners** and **mortgagees** of SDA enrolled dwellings about:

- how to notify the Office of the Public Advocate (OPA) when required under Part 12A of the Residential Tenancies Act
- what is OPA's role when it receives these notices
- what are OPA's expectations of owners and mortgagees in relation to the notices.

How to notify OPA if you have issued a residential notice

Please send your notice to the following email address:

residentialnoticesopa@justice.vic.gov.au

When can an owner give a resident a notice to vacate?

An **owner** may give a resident a notice to vacate where the dwelling is to be sold or offered for sale with vacant possession (section 498ZX(1)(k)). The notice must be accompanied by documentary evidence which supports the reasons for giving the notice.

If the interest of the **SDA provider** in the property has ended under a sub-leasing arrangement, the **owner** can also exercise the rights of an **SDA provider** to give the resident a notice to vacate. If this is an exercise of the right to issue a notice of temporary relocation and a notice to vacate for reasons other than for the sale of the dwelling, the owner is subject to the same obligations as the SDA provider. In such cases, please see OPA page for SDA providers (section 498ZZCA).

When can a mortgagee give a resident a notice to vacate?

Where a **mortgagee** becomes entitled to possession of, or to exercise a power of sale of, the dwelling, the **mortgagee** may give the SDA resident a notice to vacate (s498ZZD).

What is OPA's role when it receives the notices?

OPA has a safeguarding role for residents when it receives notices. OPA will check:

- what supports the resident has
- how the resident will be affected by the notice
- consider whether the supports in place for the resident may be sufficient to ensure the resident is not accommodated in unsuitable premises or rendered homeless.

OPA's expectations of owners and mortgagees in relation to notices

Owners and **mortgagees** are required by law to notify OPA within 24 hours of giving the notice to the resident. Failure to do so may incur a penalty up to 60 penalty units (\$9913 as at 1 July 2019).

OPA expects the **owner** will:

- provide a copy of the notice to vacate given to the resident to OPA
- provide a copy of the residency agreement to OPA
- advise OPA of the name, address and contact details of:
 - the SDA provider
 - any SIL provider at the residence (if known)
 - any NDIS support coordinator (if known)
 - the NDIS planner (if known)
 - any guardian, administrator or NDIS Plan Nominee
- advise OPA of the reasons for the issuing of the notice
- advise OPA of any supports or government bodies involved with the resident.

OPA expects the **mortgagee** will :

- provide a copy of the notice that complies with section 498ZZD(2) given to the resident to OPA
- provide a copy of the residency agreement to OPA
- advise OPA of the name, address and contact details of:
 - the SDA provider
 - the owner (if different from the SDA provider)
 - any SIL provider at the residence (if known)
 - any NDIS support coordinator (if known)
 - the NDIS planner (if known)
 - any guardian, administrator or NDIS Plan Nominee
- advise OPA of the reasons for the issuing of the notice
- advise OPA of any supports or government bodies involved with the resident.

For more information

Office of the Public Advocate

Phone: 1300 309 337

Email: residentialnoticesopa@justice.vic.gov.au

Website: publicadvocate.vic.gov.au

Consumer Affairs Victoria

Phone: 1300 404 319

Website: consumer.vic.gov.au

Email: Via the online enquiry form on Consumer Affairs Victoria's website