Government of South Australia

human services

Retirement Villages

Information for residents and prospective residents

The information contained within this booklet provides a guide to understanding the *Retirement Villages Act 2016* and *Retirement Villages Regulations 2017.*

Contents

Disclaimer: The information in this booklet relates to the *Retirement Villages Act 2016* and *Retirement Villages Regulations 2017*, as it applies from 2 February 2026.

In developing this booklet, every effort has been made to ensure that the information reflects the intent of the legislation and/or represents examples of best-known practice. The information contained in these resources does not constitute legal advice. Office for Ageing Well recommends that you seek your own legal advice should you require interpretation of the legislation.

Introduction

Retirement villages are a unique housing option where people generally buy a lease or license giving them long-term tenure.

Retirement village living usually involves significant financial commitment and lifestyle changes.

This booklet provides information about the law, as well as your rights and responsibilities as resident or prospective resident of a retirement village.

You can view a list of all retirement villages registered in South Australia on the Retirement Villages Register.

In South Australia, retirement villages are regulated by the *Retirement Villages Act 2016* (the Act), and *Retirement Villages Regulations 2017* (the Regulations).

The Department of Human Services administers this legislation, through the Retirement Villages Unit, Office for Ageing Well.

You can also get free information and advice about retirement villages from the Aged Rights Advocacy Service.

Before moving into a retirement village

If you are considering living in a retirement village, you need to think about what type of village you want to live in and seriously consider what you can afford on a continuing basis.

In South Australia, retirement villages are most-commonly owned and/or operated by private developers or non-government/charitable organisations.

It is a good idea to visit a number of villages.

- Use the checklist at the back of this booklet to assist your decision-making
- Take notes so you can compare across villages
- If you are unsure about anything, ask for more information or seek advice.

The more information you have before you make a move, the smoother your transition is likely to be and the less likely you will be to experience problems in the future.

It is important to understand that, in most cases, you will not:

- own the residence in which you live, but rather you will purchase a lease or license which gives you the right to occupy that residence, or
- be able to borrow money against your lease or license
- be able to transfer your interest in the residence to another person.

> **"You will also need to follow the village rules relating to visitors and guests. Read these rules carefully - many villages do not permit others to stay in your home while you are away travelling or otherwise absent from the village."**

Many people consider moving into a retirement village as their last housing move. However, you may want or need to leave for a number of reasons, such as if family move interstate or you need a higher level of care. Consider what will happen if this occurs.

It is important to remember that, like any financial transaction, the buyer beware principle applies. The value of doing your homework and **seeking legal and financial** advice before you enter into a contract cannot be over-emphasised.

Register

Office for Ageing Well has recently developed a new user-friendly online register which allows you to search by location, village or operator name. You can also view all retirement villages registered in South Australia by selecting 'view all'.

The Register is available on [sa.gov.au](sa.gov.au)

Documents the operator must provide

Before you sign a residence contract, the operator must give you a copy of these documents:

- The residence contract
- Disclosure statement
- Codes of conduct
- Residence rules
- Financial statements from the last annual meeting of residents, including:
  - a written statement of any subsequent changes in affairs in the village or of the operator since the statements were prepared that may significantly affect your decision to enter the village
- Minutes from the last two annual meetings of residents (or last meeting if only one was held)
- Remarketing policy
- Dispute resolution policy
- Surplus and deficit policy.

You will need to read these documents carefully and seek professional advice (for example, legal and financial). You may also wish to discuss your move with family and friends.

These documents must be provided at least 10 business days before you sign a residence contract. You may waive this period if you have sought legal advice and wish to proceed earlier.

If you have any concerns about the interpretation of a specific clause in the contract, ask for a written explanation from the operator and attach this to your contract.

Once signed, your residence contract cannot be changed without the consent of both parties.

Disclosure statement

The disclosure statement assists you to better understand your contract by providing an overview of important information.

It must contain information about:

- all fees and charges you will pay:
  - before you move in
  - while you live in the village
  - when you leave
- definitions of fees, charges and funds
- how the operator uses these fees and charges
- any interest the operator has in services used in the village (for example, electricity or internet)
- details of embedded networks or limits on essential services like electricity or gas
- insurance arrangements for the village
- when you will receive your exit entitlement
- how your exit fee is calculated
- an estimate of exit entitlement and exit fees if you were to leave after 2, 5 or 10 years and any assumptions made
- what happens if you leave to enter aged care

- a statement about possible special levies for unexpected costs and whether any are already in place for the village (including their purpose, amount and payment frequency)
- information about major capital projects planned for the next two years, including cost and funding
- the number of people living in the village and the types of tenure (for example, lease, licence, share or tenancy agreement).
- clarification that:
  - the disclosure statement is not part of the residence contract but a summary of certain information contained in the residence contract
  - you should make sure you understand the contract terms before signing the contract
- it is recommended that you seek legal and financial advice.

Residence contract

The residence contract is legally binding and sets out your rights and responsibilities, and the rights and responsibilities of the operator.

It must contain information about:

- the operator's name and contact details, and how you will be told if this changes
- the name and location of the village
- the parties to the contract
- your cooling-off rights
- any exemptions under the Act
- the land titles for the village
- your form of tenure (lease, licence, share or strata title) and that you are not buying the residence (where applicable)
- details of your residence (location, type, layout and size)
- who pays for repairs and replacements of fixtures, fittings and furnishings
- responsibilities for reinstating or renovating the residence when you leave
- services and facilities available to all residents
- optional personal services available to you (such as cleaning or meals) and any associated costs

- whether you can make alterations, the approval process, and any obligations when you leave
- your ingoing contribution (amount, how and when it is paid)
- your settling-in period
- any recurrent charges, what they cover, and how they can change
- the village's financial year
- any funds you contribute to and their purpose
- how and when your exit entitlement will be calculated and paid
- fees for remarketing your residence and how they are calculated
- the village's surplus and deficit policy
- the village dispute resolution policy
- trustee details (if applicable)
- how to end your contract
- any planned developments or expansions. Note: There is no guarantee that proposed developments will be completed.

If the residence contract does not align with the Act, the Act takes precedence over the contract.

When speaking with an operator or their sales representative, take note of verbal promises about additional services, or exemptions that are not contained in the advertising material that you have seen about the village. When checking your contract, make sure these verbal promises have been included or ask for them to be made in writing.

Codes of conduct

Operator, staff and resident codes of conduct set out expected standards of behaviour and help foster a respectful and safe village environment.

It is important that you read and understand the codes of conduct. The codes of conduct must be followed by residents, staff and operators.

Residence rules

The residence rules set out expectations relating to the use of the retirement village to ensure enjoyment of the village by all residents.

Residence rules must address (but are not limited to):

- visitors to the retirement village including short-term or long-term visitors
- noise
- parking
- collection and disposal of rubbish
- pets
- gardens and landscaping
- the use and operation of services and facilities in the village (including restrictions on the use and operation of services).

Before signing your residence contract

You have ten-business days after receiving the required documents before you can sign the residence contract. This is called the disclosure period.

It is strongly recommended that during this time you seek legal and financial advice. It is also a good idea to discuss your move with family, and friends. Let them read the contract, as they may think of something you have overlooked. Often, it is one of these people who may be assisting you at a later stage and if they are already familiar with your contractual obligations, it will make their job much easier.

After receiving the required documents and obtaining advice, you may wish to move forward with the contract more quickly. You may choose to waive the disclosure period if all the following apply:

- you have received all required documents
- your legal representative has confirmed in writing that they have provided legal advice on those documents
- you give the operator written notice that you wish to enter into the contract before the disclosure period ends.

Cooling-off

Once you have signed the residence contract there is a ten-business day cooling-off period.

During this period, you can rescind the contract and receive a refund of any money paid by you under the contract.

The operator must take all reasonable steps to refund your money within 10 business days, or if they do not already have your payee details, after they have been provided with your payee details.

You may waive the cooling off period if you wish to take up occupation of your residence prior to the completion of the ten-business days. To waive the cooling-off period you must sign a written waiver acknowledging the operator has informed you about the entitlement to cool-off and that you have chosen to waive this entitlement.

Settling-in

You are entitled to a settling-in period, which is 90 calendar days from the date you signed your contract (or longer if specified in your contract) or the date on which you enter occupation of your residence, whichever is later.

During this period, you may decide that you wish to leave the village. If so, you may be required to pay the following costs:

- remarketing
- fair market rent for the period of occupancy, and
- in some cases a refurbishment fee.

If you are also charged recurrent charges during this period, the amount you were charged must be deducted from your fair market rent.

If you have made approved alterations to the residence during the settling-in period which are subject to an agreement that you will return the residence to its original condition upon exit, you will need to do this. If not, you will be responsible for the cost to reinstate the residence.

If you leave during the settling-in period, your exit entitlement will be repaid in accordance with the terms of your residence contract. Depending on the terms of your contract, this may be at a specified time, once your residence is relicensed or once 12 months has elapsed, whichever is sooner. You cannot be required to pay any penalty for termination during this period.

Premises condition report

Before you take up occupation, the operator must provide you with a premises condition report.

The premises condition report is a written report which records the condition of the fixtures, fittings and furnishings provided at the time you take up occupation. The Act sets out the minimum requirements for what the operator must include in the report.

You must complete the report and return it to the operator within ten- business days after your right to occupation commences. If you don't return the completed report to the operator within the ten-business days you will be taken to have agreed to the report.

The report must be signed by you and the operator. You should ensure that you are satisfied with the information contained within the report before you sign it.

Residence contract holding deposit

While you are deciding whether to sign a residence contract, an operator may request that you pay a residence contract holding deposit to temporarily reserve a residence. The maximum holding deposit allowed is $5,000.

The holding period will start when you pay the deposit and will end at the earliest of the following:

- the day you tell the operator you do not want to sign the contract
- the 12th (twelfth) business day after you receive the required documents
- the date agreed between you and the operator when the deposit is paid.

During the holding period the operator cannot:

- increase the price of the residence
- increase any fees or charges under the proposed contract
- enter into a contract for the same residence with another person.

Living in a retirement village

Financial matters

There are costs associated with living in a retirement village, such as those associated with the maintenance of property and the grounds and personal/ additional services provided to residents. Funding for these items is generated in a variety of ways.

Each retirement village has its own set of fees and charges. All village funds and their purposes are required to be outlined in your residence contract. All fees and charges that you are responsible for must also be included in your disclosure statement.

Recurrent charges

Recurrent charges are the fees, charges or other amounts which you are required to pay to the operator of a retirement village on a recurrent basis. Recurrent charges are usually payable at regular intervals, such as fortnightly or monthly.

Recurrent charges you must pay are described in your residence contract and disclosure statement.

Recurrent charges might cover expenses such as:

- administration (e.g. stationery, office equipment, phone use)
- wages, salaries and related costs (e.g. village manager, office person, maintenance person/gardener)
- capital replacement and/or long-term maintenance costs
- property management (e.g. council rates, insurance)
- personal and additional services (such as food and catering).

Recurrent charges may also include costs such as electricity, water and council rates. However, this can vary between villages, and it is important to know whether you will be responsible for these charges in addition to your recurrent charges.

Further information about some of the funds you may be required to contribute to is provided below.

Capital fund

A capital fund means a contingency, sinking or other reserve fund or account established for capital replacement or improvements, long-term maintenance or other similar items in a retirement village. Some of the most common types of capital funds which you may be required to contribute to are:

- **Capital replacement fund**
  A capital replacement fund is most commonly used to replace capital items or to fund a planned maintenance program. Replacement of carpets or major appliances such as stoves, hot water services and air conditioners may be paid for out of this fund.
- **Long-term maintenance fund (sinking fund)**
  A long-term maintenance fund is usually set up to meet non-budgeted, unplanned expenses or to cover the cost of long-term maintenance. This may include the cost of repairs to road surfaces, downpipes and gutters, painting, security and salt damp repairs. It could also be used for the repair of recreational facilities such as spas and swimming pools.

Personal/additional services

You may be charged a fee for services specifically provided to you on a personal needs basis, such as cleaning of your residence, care services, separate meals or meals that meet special dietary requirements.

Payment for any personal/additional services will cease if you are absent from a retirement village for a continuous period of at least 28 days.

You will need to check with the operator about what portion of your recurrent charges are for personal/additional services and what costs will continue to apply if you are absent from the village. For example, in some cases, where meals are provided, you will not be charged for food, but you may be expected to pay a salary component for the provision of meals.

Increases in recurrent charges

All recurrent fees and charges are subject to increases.

An operator is required to hold a meeting of all residents annually. At the annual meeting, audited financial statements relevant to all village funds for the previous year are presented to the residents. Residents have an opportunity to put questions to the operator at the annual meeting or can submit questions for the operator prior to the meeting.

Capital fund income and expenditure must be presented separately to income and expenditure derived from the payment of the recurring payment.

Recurrent charges cannot be increased by more than what is specified in the contract (or a fixed formula in the contract) or by CPI unless:

- the majority of residents agree, or
- the increase relates to certain specified costs outside of the operator's control (such as insurance, award wages, rates, levies and taxes etc.) or
- by order of the South Australian Civil and Administrative Tribunal (SACAT).

The annual meeting must be held within four months of the end of the village's financial year.

Special levies

On rare occasions, a special levy may be charged by a retirement village. A special levy is a fee, charge or other amount which a resident is required to pay an operator to enable the operator to recover an unexpected expense of the retirement village. For example, a special levy may be charged for budget shortfalls due to an unexpected event in a particular financial year e.g. to cover costs associated with road resurfacing due to tree root damage.

- Special levies may only be imposed if authorised by a special resolution passed at a meeting of residents.
- residents must receive at least 15 business days written notice of the meeting along with a statement of the proposed special resolution
- the resolution must be passed by at least 75% of residents who vote at the meeting. There is one vote per residence, either in person or by absentee vote.

Meetings and consultation

The best way for both residents and operators to keep the lines of communication open in a retirement village is through village meetings.

Operators or residents' committees may convene a meeting of all residents by notifying all residents, at least ten-business days prior to a meeting, of the time, place and business of the meeting. Within ten-business days of a meeting, the convenor of the meeting must make accurate minutes of the meeting available for inspection by residents in a manner which is easily accessible by residents.

All retirement village residents have the right to participate in resident meetings. However, if there are two or more residents who live in the same residence, only one of them may vote on any matter to be decided at the meeting. A resident may also exercise an absentee vote on a question arising for a decision at a meeting by giving the operator written notice of the proposed vote at least 24 hours before the time of the meeting.

Annual meetings

Operators are required to convene a meeting of residents annually. Along with the notice for this meeting the operator must provide residents with:

- information that enables a comparison to be made between the previous financial year's income and expenditure and the estimates for the current financial year, including the audited financial statements and budgets for all accounts. Capital fund income and expenditure must be provided separately to income from recurrent charges.
- estimates of income from residents and other sources and proposed expenditure of the income for the current financial year, separately detailing capital fund income and expenditure, income and expenditure of recurrent charges and estimates of management expenditure.
- if the expenditure for the current financial year includes any expenditure towards management fees or administrative costs the statements must include a description but not monetary value of each item where expenditure goes towards management fees or administrative costs. If the expenditure is apportioned between more than one retirement village or other businesses, the method of calculation must be included.

Operators must invite residents to submit their questions in writing at least five business days before the date of the meeting, although residents can choose to raise their questions at the meeting.

The representative of the operator attending the meeting must give residents a reasonable opportunity to raise questions and must respond to any reasonable question.

If the operator is unable to answer a question at the meeting, a written answer must be provided within ten- business days of the meeting.

Accurate minutes of the annual meeting must be provided to each resident within ten-business days of the meeting.

Finance committees

The operator is required to undertake reasonable consultation with a residents' committee on a number of issues, including holding two meetings on the preparation of an annual budget for the village.

To undertake this role, some residents' committees establish a finance sub-committee made up of residents who are knowledgeable and/or interested in accounting practices and willing to be involved.

These arrangements vary from village to village, depending on their size and the needs of residents and operators. The operator can provide unaudited accounts for these budget meetings.

Consultation with all residents

There are a number of matters within the Act and Regulations that require an operator to consult with all residents of a retirement village.

Before the change in operator occurs, the current operator must convene a meeting of residents to enable the new operator to provide information to, and consult with, all residents.

Before any redevelopment of a retirement village commences, an operator is required to convene a meeting of residents and present information about the proposed redevelopment. The operator must also answer any reasonable questions put by a resident. An operator cannot commence redevelopment without giving due consideration to a resident's rights arising from a contract.

An operator must also consult with all residents on the following matters:

- changes to the village's dispute resolution policy
- changes to the residence rules
- changes to the village's remarketing policy
- any matter that could have a significant impact on residents' financial affairs, the amenity of the village or residents' way of life.

An operator will be taken to have taken steps to ensure reasonable consultation with residents if they:

- provide clear and accessible information in plain English
- allow time for residents to ask questions and give feedback
- consider all feedback before making a decision
- share the outcome of the consultation and explain the reasons for the decision.

Residents' committees

The residents of a retirement village may choose to elect a residents' committee.

The function of a residents' committee is to consult with the operator of the retirement village in relation to matters of interest to residents and to represent the interests of residents.

The basic structure and functions of a residents' committee are:

- only one residents' committee may be established in a retirement village
- only a resident of the village may belong to a residents' committee
- members are elected by the other residents and hold office for a term of one year but can stand for re-election
- if the need arises, a member can be removed from office by a special resolution of residents
- a residents' committee must provide the operator with information about the membership of the committee including contact information
- a residents' committee can determine its own procedures and appoint sub-committees
- a residents' committee must undertake reasonable consultation with residents before determining or amending its procedures

- it is an offence for an operator to deliberately discourage or prevent residents from forming a residents' committee or to obstruct a committee in the performance of its functions
- both the operator and the residents' committee must, on a reasonable written request, meet with the other party
- the operator must ensure reasonable consultation with the residents' committee on various village matters

The residents' committee must convene a meeting of all residents annually. It must:

- provide residents with notice of the meeting and a statement of accounts showing the committee's income and expenditure for the previous financial year at least 10 business days before the meeting.
- make accurate minutes of this annual meeting available for inspection by residents within ten-business days of the meeting and provide a copy to the village operator.
- retain meeting minutes for at least seven years.

Resident rules

The residence rules set out expectations relating to the use of the retirement village to ensure enjoyment of the village by all residents.

You must receive a copy of the residence rules before you sign a residence contract.

An operator, the residents' committee or at least 20% of residents can propose or request changes to the village residents' rules.

Once a rule change is proposed the operator must consult with residents before deciding about the alteration.

At a minimum, an operator must:

- provide clear and accessible information about the proposed change in plain English
- allow time for residents to ask questions and give feedback
- consider all feedback before making a decision
- share the outcome of the consultation and explain the reasons for the decision.

If an alteration is made to the residence rules, the operator must issue an amended set of rules to every resident.

If you believe a rule is harsh, oppressive, unconscionable, or unjust, you should follow the village dispute resolution policy. If you are not happy with the outcome, you may apply to the South Australian Civil and Administrative Tribunal (SACAT) to have the rule modified or declared void.

Resident code of conduct

Codes of conduct set clear standards for behaviour in retirement villages. They help create a safe, respectful and supportive environment for residents, operators and staff.

You must comply with the mandatory requirements in the Code of Conduct, which will be provided to you with your contract. Failure to do so may constitute a breach of your residence contract and could lead to termination of your contract.

The mandatory requirements are that a resident must not:

- harass or intimidate a resident, the operator, a staff member or any other person in the village
- act in a manner that may place a resident, the operator, a staff member or any other person in the village at risk of serious harm
- intentionally or recklessly cause damage to property
- repeatedly act in a manner that unreasonably and detrimentally affects the safety and wellbeing of a resident, the operator, a staff member or any other person in the village.

Good practice principles

The resident code of conduct also sets out good practice principles.

These are:

- respect the dignity and diversity of all residents, prospective residents, the operator, members of staff of the village and all others in the village and their rights under the Act
- act with integrity, honesty and consideration towards other residents, the operator, members of staff of the village and all others in the village
- contribute to a safe village environment for all residents, the operator, members of staff of the village and all others in the village
- respect the peace, comfort and privacy of other residents and persons in the village
- act respectfully in all interactions and communications (whether in person, online or in writing) with other residents, prospective residents, the operator, members of staff of the village and all others in the village
- comply with the residence rules
- take all reasonable steps to ensure compliance with the residence rules by any person who is their guest at the village or otherwise invited by them to the village
- act honestly and in good faith during dealings with the Registrar.

Documents you can request

You can request a copy of the following documents at any time:

- your residence contract
- the residence rules
- a statement of the amount you would be entitled to if you stopped living in the village
- details of all current policies of insurance for the village (such as a copy of the relevant certificates of insurance).

The operator must provide the document to you within 10 business days free of charge.

Alterations

Prescribed Alterations

A prescribed alteration is a change made to your residence that is recommended by a registered health professional to help you live more independently.

It includes things like ramps, handrails, or other equipment.

You can request approval from the operator in writing to make a prescribed alteration.

If the operator agrees to the prescribed alteration, they can ask you to reinstate the residence to the same condition it was in before the alteration was made, when you leave.

The operator can only refuse your request if there are reasonable grounds. They must explain the reasons to you and provide information about the village's dispute resolution process.

Your right to request an alteration overrides any conflicting terms in your residence contract.

Other alterations

While living in your residence, you might wish to make an alteration, such as installing an outdoor blind, or painting a wall.

It is generally up to the operator to determine whether alterations are permitted. If and how you may make alterations to the residence must be clearly stated in your residence contract.

Where alterations are allowed, the operator must provide information to you about:

- how to request an alteration
- the approval process
- what happens when you leave the village (for example, will you need to return the residence to its original condition).

This applies to alterations made at any time after you move in, including if you choose to leave during the settling-in period.

Village safety

The operator must keep the common areas of the village reasonably safe.

This includes developing and maintaining an emergency plan and displaying safety information in common areas of the village (where applicable).

The operator will provide you with information about the emergency plan and arrangements for what happens before, during and after an emergency.

It is important that you familiarise yourself with this information and understand how emergencies and evacuations will be managed in your village.

Disputes

From time-to-time complaints and problems may arise between operators and residents.

As in other situations, the best way to avoid a dispute is to deal with the problem at an early stage before it escalates into a major issue. You may choose to discuss the problem informally with another resident or your residents' committee before deciding to take the matter further.

Each village has a dispute resolution policy which must be followed unless:

- the resident agrees to take steps to resolve the dispute in another way, or
- exceptional circumstances exist warranting an urgent application to SACAT.

A village's dispute resolution policy must include or address at least the following:

- who a resident may contact in the event of a dispute
- how a resident can make a complaint
- how an operator will handle a dispute once a resident makes a complaint, including the timeframe in which an operator will acknowledge receipt of the complaint and then respond to the substance of the complaint
- how a resident may resolve a dispute with another resident and when the operator may provide assistance to resolve the dispute
- where a resident may seek advice in the event of a dispute
- that a resident may apply to SACAT if a resident is not satisfied with a response to the complaint
- a requirement that an operator keeps a written record relating to the dispute
- how an operator will communicate with a resident in response to a complaint
- that the resident has the right to be accompanied by a person chosen by the resident at any meeting held to resolve the dispute
- procedures for varying the dispute resolution policy.

The dispute resolution policy can generally only be changed if the majority of the residents in the retirement village agree. The exception to this is where a change is required to comply with any Act or law.

If any alteration is made to the policy, all residents must receive the revised version.

The Act does not address disputes between residents. If you have an issue with another resident, you should manage it in accordance with the relevant provisions of your village's dispute resolution policy. You may also contact the Aged Rights Advocacy Service (ARAS).

The Aged Rights Advocacy Service (ARAS) is funded by Office for Ageing Well to provide individual advice and advocacy to residents at any stage during a dispute and may be able to provide support to residents.

South Australian Civil and Administrative Tribunal (SACAT)

If there is a dispute between you and the operator of the retirement village, either party may apply to the South Australian Civil and Administrative Tribunal (SACAT) for resolution of the matter.

SACAT cannot hear disputes between residents, or any dispute which is not within the definition of 'retirement village dispute' under the Act.

You must follow the steps in your village dispute resolution policy before applying to SACAT.

Role of SACAT

SACAT is an independent body that provides a prompt and low-cost way to resolve disputes.

SACAT can hear disputes between an operator and resident concerning (but not limited to):

- breaches of rights and obligations under the:
  - residence contract
  - the Act (including a dispute relating to the application of a residence rule)
- residence contract holding deposits
- full or part payment of an exit entitlement.

SACAT can make legally binding and enforceable orders. In certain circumstances it can also make a restraining order in connection with a matter it is hearing.

SACAT may refuse to determine an application if it considers that it is appropriate to do so for any reason. SACAT may suggest conciliation or mediation before it hears a matter, unless exceptional circumstances exist or the resident and operator agree to an alternative approach.

Before making an application to SACAT

Making an application to SACAT is a legal avenue and more formal than other dispute resolution processes. Before making an application, you must:

- have made reasonable attempts to resolve the dispute in accordance with the operator's dispute resolution policy (or using other steps agreed between you and the operator), and
- have sufficient evidence to support your allegation, and
- ensure the act or omission that is the subject of the dispute occurred no more than four years before the day of making the application.

In rare cases, SACAT may grant permission to make an application to the Tribunal without first requiring parties to make reasonable attempts to resolve the dispute (for example, in urgent cases).

Preparing for a hearing

If you wish to make an application to SACAT, you will be required to complete the application form and attach a copy of your residence contract (including the supporting documentation) and residence rules. A non-refundable payment is required when you lodge your application.

Once you have lodged your application, SACAT will send you a notice advising of the preliminary hearing date.

If you receive notice that an application has been made to SACAT by the operator, you will also receive a copy of that application. You will need to prepare a response to answer the allegation(s) made and you may call witnesses if necessary.

Useful information about hearings and preparation is available on the SACAT website sacat.sa.gov.au.

Legal representation

If you want a lawyer to represent you, you must seek leave from SACAT. Lawyer involvement is only allowed under certain circumstances. If one party to the dispute is granted approval for legal representation, the other is automatically granted the same opportunity.

SACAT hearings

Hearings are usually held at:

The South Australian Civil and Administrative Tribunal

4th Floor, 100 Pirie Street, Adelaide

One of the Tribunal members will conduct the hearing in a reasonably informal atmosphere. Hearings are open to the public and are electronically recorded. You will be required to make an oath or affirmation at the commencement of the proceedings.

At the preliminary hearing the Tribunal member will:

- decide whether there is a case to answer
- determine whether 'leave' for legal representation is applicable
- ascertain if further information is required from either party.

If the matter is to proceed, a full hearing date will be set. Witnesses will be required to attend the full hearing, and the Tribunal will send out further notices advising all parties involved of the date and time. If a witness is reluctant to attend, the Tribunal may issue a summons if necessary.

The Tribunal is not bound by the rules of evidence but still needs to assess the reliability of the evidence. The Tribunal will consider relevant written statements from witnesses. However, it is useful to be aware that evidence may be more persuasive if given in person on oath or affirmation and subjected to questioning by the other party and the Tribunal.

In most hearings, the Tribunal Member questions both parties to clarify the issue and what each party has to say about the matter. Any supporting evidence will be considered on merit.

Once all evidence has been presented, SACAT makes a determination and may issue an order which is binding and enforceable.

For retirement village matters, SACAT generally reserves this determination to a later date. This allows the Tribunal Member time to consider all the evidence in detail. A written copy of the order(s) is forwarded to the parties. SACAT must give a written statement of reasons for its order/decision if requested by a person affected by that order/decision.

If a party to the proceedings fails to attend the hearing and SACAT is confident that notice of the hearing has been sent to the correct address, then the matter may proceed in the absence of the person. If for some good reason (e.g. medical illness) a party is unable to attend at the appointed time, the Registry should be notified immediately. It may be possible to arrange another hearing date.

Interpreter

If needed, the Tribunal Registry will arrange for an independent interpreter (i.e. a person not known to either party) to attend the hearing). It takes time to do this, so if you are aware that any party to the proceedings needs an interpreter, you should inform the Tribunal Registry at the time the application is lodged.

Withdrawal of application

If, at any time, you wish to withdraw your application, the Registry must be notified as soon as possible. This ensures that all parties can be notified and the scheduled time can be reallocated to another case.

Group applications

Each application to SACAT relates to an individual residence agreement. If more than one resident has a dispute with the operator it may be possible for SACAT to hear these disputes together. Each dispute must be on exactly the same matter, and each resident must make his or her own application to SACAT and pay the prescribed fee. Within the application residents should request that the matters are heard at the same time.

Leaving a retirement village

There may come a time when you decide to leave the village, or you may have to leave for medical reasons. The following information relates to leaving the village and to the relicensing of your residence.

The arrangements for leaving a village will be set out in your residence contract and village remarketing policy. This will usually include:

- how to notify the operator of your intent to leave
- how to provide vacant possession
- how and when your exit entitlement will be paid.

Terminating the contract

You can terminate your residence contract at any time by providing written notice to the operator.

Before your residence can be relicensed, your residence contract must be terminated. Your residence contract may be terminated by you or, in certain circumstances, by the operator of your village.

The operator can terminate your right of occupation if:

- you breach the residence contract and/or rules
- you act in a manner that adversely affects the health and safety of people working in the retirement village or seriously disturbs the peace or comfort of other residents of the retirement village
- your residence becomes an unsuitable place of residence for you due to physical or mental incapacity
- circumstances exist that make it no longer appropriate for you to continue to reside in the residence.

When terminating a contract, any limitations or qualifications that may arise from the original contract must be considered.

If the operator decides to terminate your right of occupation, they must apply to SACAT for confirmation of their decision. Before making this application, the operator must give you at least 5 business days' written notice of their intention to apply to SACAT.

Once the application has been made you must also:

- receive written notice of the grounds for termination
- be informed that the decision is subject to review by the Tribunal
- be informed of your rights about such a review.

You and the operator will have the opportunity to present your case to SACAT. Where SACAT confirms the operator's decision to terminate, it must set a timeframe within which you must vacate your residence.

Moving to a residential aged care facility

At some stage it may be necessary for you to move, so you can access a level of care not available at your village.

If you need to leave your residence to move into a residential aged care facility, in some circumstances you can apply for the operator to make payments to the aged care facility on your behalf. These payments will be deducted from your exit entitlement.

To be eligible for payments to be made, you must:

- be approved under the *Aged Care Act 2024* of the Commonwealth to enter into residential care at an aged care facility provided by an approved provider under that Act
- choose to pay a refundable accommodation deposit or a refundable accommodation contribution under that Act
- not have ready access to funds to make the payment, or your personal finances would be seriously affected by any such payment
- be entitled under your residence contract to payment of an exit entitlement.

To apply for payments, you (or your representative) must make a written application to the operator within 60 days of being approved for entry to the facility or leaving the village (whichever is later).

Within 30 days of receiving an application, the operator must commence making payments to the aged care facility for the daily accommodation payment. An operator must continue to make payments until your exit entitlement is paid to you or payments have reached 85% of the operator's reasonable estimate of the exit entitlement.

The operator can request evidence of your income and assets as determined in accordance with the *Aged Care Act 2024* (Commonwealth). For example, this evidence may be a copy of your income and assets assessment undertaken by Centrelink.

Vacated premises report

Within ten-business days of you ceasing to reside in a retirement village, an operator must complete a vacated premises report and provide it to you.

This report must include detailed information about the condition of fixtures, fittings and furnishings.

Once you have received the report, the operator must allow a reasonable time for you to consider and agree to the report.

If there is a dispute about the report, you and the operator must attempt to resolve it in accordance with the dispute resolution policy, unless you agree to use alternative steps.

The report must be signed by the operator, and by you or your representative if it is reasonably practicable.

This report, used in conjunction with the premises condition report, will indicate whether there is wear and tear or damage to the residence and will assist in determining responsibility for costs for any repair, replacements or refurbishment in the residence in accordance with the residence contract.

Remarketing

Each village is required to have its own remarketing policy, which clearly outlines the rights and obligations of both the operator and the outgoing resident and must clearly state any fee or charge in relation to remarketing.

The operator is prohibited from charging an amount as a fee or charge in relation to remarketing, unless the amount is specified in, or calculated in accordance with, the residence contract.

For existing contracts that do not specify remarketing costs, an operator is prohibited from charging more than the reasonable costs incurred in remarketing a residence contract.

Where a village has a general marketing strategy, the reasonable costs may include a reasonable portion of the costs of the general marketing strategy.

Once you have decided to terminate your contract and have provided notice, the operator can take preliminary steps to remarket your residence.

Where applicable, the policy will refer to processes such as:

- the operator meeting with you or your agent to discuss and explain the remarketing process
- determining if refurbishment is needed to ensure that your residence is in a reasonable condition for remarketing
- if necessary, how/when work will be undertaken, who is responsible for organising the work and for associated costs
- the fixing of the price at which your residence will initially be remarketed and when/how changes to that price will be considered and made
- the type, level and frequency of advertising that will be undertaken
- who will be responsible for any costs associated with the valuation of your residence, any advertising and other relevant matters and how any such costs will be calculated or determined
- what will be required of you in relation to the remarketing
- what steps you and the operator will undertake when the residence is relicensed
- settlement procedures including the fees and charges that will be deducted at the time of settlement, and the provision of the settlement statement
- what fees, charges and costs will be deducted by the operator in relation to the relicensing of your residence at settlement
- that an operator will at least match the level of marketing for any new residences which are also on the market at the same time.

The operator must also provide you with a written progress report (at least monthly). These monthly reports are required to include at the minimum:

- what advertising has been undertaken in relation to the residence and the village
- the number of inquiries received about the residence
- the number of people who have viewed the residence
- the number of other residences being remarketed in the retirement village
- the number of residences in the village sold or relicensed in the previous month.

Payment of your exit entitlement

Generally, payment of your exit entitlement will occur when the conditions of your residence contract are fulfilled. In most villages, this will be once your residence is relicensed. However, some villages offer payment of an exit entitlement within a stated period.

In all cases, the law provides that the operator must pay your exit entitlement no later than twelve months and thirty business days after you have provided vacant possession, whether the residence has been relicensed or not. This applies unless you decide to wait until the residence is relicensed or if SACAT orders an extension of the repayment period due to special circumstances in a particular case.

Once your exit entitlement becomes payable, the operator must take all reasonable steps to pay your exit entitlement within 10 business days. If the operator requests that you provide your payee details for this purpose, the operator must pay your exit entitlement within 10 business days after your exit entitlement becomes payable and you have provided the operator your payee details.

A resident is entitled to ask for an estimated exit entitlement at any time.

Capital replacement fund deduction

The amount an operator may deduct from your exit entitlement as a contribution to a capital fund will be specified in your residence contract.

For contracts entered into before 2 February 2026, the amount that can be deducted must not exceed an amount that is 12.5% of the current market value of the residence.

For contracts entered into on or after 2 February 2026, the amount that can be deducted must not exceed the lesser of the following:

- 1% of the current market value of the residence, multiplied by the number of years (including any part year) of occupation or
- 12.5% of the current market value of the residence.

This is a cap on the amount that can be deducted. If your contract provides for a lesser amount to be deducted, then the lesser amount will apply.


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Organisations to contact for advice

If you require further information or want to discuss any aspect of retirement villages, contact the appropriate organisation below.

Independent information and advice

Office for Ageing Well

Office for Ageing Well is responsible for administering retirement village legislation and can provide general information and advice on retirement village matters, and your rights, obligations and liabilities under the legislation.

(08) 8204 2420

retirementvillages@sa.gov.au

retirementvillages.sa.gov.au

Aged Rights Advocacy Service (ARAS) – Retirement village resident advocacy program

The Aged Rights Advocacy Service (ARAS) has a Retirement Village Advocacy Program providing advocacy support and assistance for residents of retirement villages in South Australia.

175 Fullarton Road, Dulwich
South Australia 5065

(08) 8232 5377
1800 700 600 (Country Toll Free)

aras@agedrights.asn.au

sa.agedrights.asn.au

Consumer organisations

Catalyst Foundation

Catalyst Foundation (formerly Seniors Information Service) provides community information for older people in South Australia. Catalyst Foundation can provide information and support on retirement villages, independent living units, serviced apartments, community housing, residential parks and residential aged care facilities.

1/47 Tynte Street, North Adelaide South Australia 5006

PO Box 220 North Adelaide 5006

(08) 8168 8776
1800 636 368 (Country Toll Free)

information@catalystfoundation.com.au

catalystfoundation.com.au

South Australian Retirement Villages Residents' Association (SARVRA)

SARVRA's members are residents of retirement villages. The Association's goals are to provide information and advice to and advance the interests of retirement village residents.

Contact via Council on the Ageing (COTA) Level 1, 85 Hutt Street, Adelaide, South Australia 5001

0415 311 501

(Membership enquiries)
0421 132 319

sarvra.asn.au

Retirement villages checklist

General issues

- [ ] Have you discussed your decision to enter a retirement village with family, friends, your financial and/or legal adviser or organisations such as Catalyst Foundation or the South Australian Retirement Villages Residents Association (SARVRA)?
- [ ] Have you considered and compared a range of villages that meet your location, financial and lifestyle requirements?
- [ ] Is the village near family, friends, activities that are important to you?
- [ ] What public, community or village transport is available and how easy is it to access?
- [ ] Is there a residents' committee? (Ask the operator for the name and phone number of the chairperson so that you can contact them and ask questions about the village e.g. have they found the operator supportive; are issues responded to quickly, what do they see as the good/bad points of the village, are residents actively involved in making village rules?) etc.
- [ ] Does the operator or the residents' committee have a copy of the minutes of the residents' committee's last annual meeting? If so, could a copy be given to you?
- [ ] Does the village have other types/levels of accommodation available at the same site e.g. serviced apartments, supported care or residential aged care facilities? What are the requirements and associated costs of accessing these other accommodation options?

Financial matters

- [ ] Do you understand all the fees and charges you may be liable for while living in a retirement village?
- [ ] If the residence in which you are interested has not yet been built, is the price fixed, regardless of when building commences?
- [ ] Do you understand what you are entitled to if you pay a deposit?
- [ ] What type of ingoing contribution will you be paying i.e. will you receive a payment when you leave the village or is the ingoing contribution a donation?
- [ ] Can you afford to pay the ingoing contribution?
- [ ] How much will you have to pay in recurrent charges? What other charges can be imposed?
- [ ] If you move in as a couple, will you be able to remain or afford to remain in the village if something should happen to one of you, e.g. can you meet living costs on a single rather than double pension?
- [ ] If you form a new partnership or remarry while living in the village and want your new partner to live with you – what is the village's policy on this and what are the financial and contractual implications?
- [ ] Does your financial situation allow for future increases in recurrent charges? Will you still have enough money left to enjoy the quality of life to which you are accustomed?
- [ ] What will happen if you cannot meet future recurrent charge increases?
- [ ] What costs will be involved when you leave the village e.g. remarketing, refurbishment?
- [ ] What are your exit fees calculated on e.g. your ingoing contribution or the price paid when the residence is relicensed?
- [ ] Are you allowed to make alterations to the residence?
- [ ] Do you receive any reimbursement if you make improvements to the residence e.g. building a veranda, installing a security alarm?

Legal implications

- [ ] Do you fully understand what the proposed residence contract and associated documents mean and what your rights and responsibilities are?
- [ ] Do you understand what type of arrangement the village offers? For example, is it a loan/license, leasehold or strata/community title?
- [ ] Have you obtained independent legal and/or financial advice on the contract? (This is strongly recommended) How will you be affected if the village is sold?

Health and welfare

- [ ] Is there any assistance or facility available if you get sick?
- [ ] What happens if you are no longer able to care for yourself?
- [ ] Is the village in a location where you can still easily access your own doctor?
- [ ] Can you access community services e.g. Meals on Wheels?
- [ ] Does the village have an emergency alarm system fitted to each residence? How is it answered and are there penalties for false alarms? Who pays for the emergency alarm?
- [ ] Have you read the written emergency procedures e.g. for accessing ambulances, fire evacuation or police attendance?
- [ ] Is there easy access to your residence for emergency vehicles or persons?

Building and construction

- [ ] Have the community facilities been built? If not, what guarantee do you have that they will be constructed? Is this noted in your contract?
- [ ] If construction of your residence is not completed, do you have a say in the design and furnishing of it? If so, will you have to restore the unit to standard when you leave?
- [ ] Are the grounds pleasant and well-tended? Who maintains the gardens and who pays?
- [ ] Do you have a private garden area? If so, will you be able to manage the upkeep required? What happens if you are no longer able to maintain your garden?
- [ ] Which way does the residence face? Where will morning or afternoon sun shine?
- [ ] Is there adequate street lighting?
- [ ] Is there adequate parking for visitors?
- [ ] Do you have a letterbox outside your residence or is there a communal mailbox area?
- [ ] Do the pathways provide clear access and are they level? If they appear cracked or unsafe, when are they being repaired and is there a written statement supporting this?
- [ ] Does the residence have steps or stairs? How steep are they? Have handrails been fitted?
- [ ] How is garbage collected? Do you have your own bin? Where do you put it for collection? Is it close by?
- [ ] Is there a recycling system available? How does it work?
- [ ] Is there noticeable noise from road traffic, aircraft, trains or the surrounding area e.g. factories, schools, shops, and other homes?
- [ ] What is the zoning for the area surrounding the village?
- [ ] Is the residence well located in relation to other residences and community facilities? Will emergency services be able to reach it?

Building and construction

- [ ] Is the residence accessible e.g. designed to suit the use of a shower chair, walking aid or wheelchair should you have or need one in the future? Are doorways and passageways wide enough to accommodate your changing needs? If not, can the residence be modified easily? Who would pay? What is the process for doing this?
- [ ] Does the bathroom have a bathtub and/or shower? How deep is the bathtub? Will you be able to manage getting in and out without assistance?
- [ ] Does the residence have safety rails in the bathroom and toilet? If not, are you prepared to have them fitted later if you require them?
- [ ] Does the residence run on gas, electricity or both?
- [ ] Is there an embedded network?
- [ ] Does the residence have heating installed? What type is it and what are the approximate running costs?
- [ ] Is the residence air-conditioned? If not, can you install an air conditioning unit? Are there any restrictions on the type of system which can be installed? Who covers the cost of purchase, installation and/or maintenance?
- [ ] Does the residence come with any appliances supplied e.g. washing machine, fridge? If so, whose responsibility is it to maintain and/or replace them?
- [ ] Does the residence have security doors and/or windows fitted? If not, can they be fitted and at whose expense?
- [ ] Have you checked that all windows and doors open and close easily?
- [ ] Are there any cracks in the walls?
- [ ] Is the exterior and interior paintwork in good condition?
- [ ] Who maintains it?
- [ ] Do you like the colour scheme? Can it be changed?

Building and construction

- [ ] Are the floor coverings in good condition?
- [ ] Do you like the curtains/light fixtures? Can you change them? What do you do with the existing fixtures?
- [ ] Are the rooms large enough to accommodate your existing furniture e.g. lounge suite, wardrobes, bed and side tables, fridge/freezer, dining table? (Measure to make certain).
- [ ] Is the telephone connected? Where is the outlet and is there an additional outlet beside the bed? If not, if you would like a landline can one be installed and at whose expense?
- [ ] Is there an option to connect to the internet and is there sufficient internet capacity for your needs? Is the internet provided as part of an embedded network?
- [ ] What storage cupboards are there e.g. pantry, linen press, built-in wardrobes?
- [ ] Can you reach the cupboards without needing to stand on something?
- [ ] Does the residence have a laundry or is the laundry communal?
- [ ] Do you have your own clothesline or is it communal?
- [ ] Is there an intercom system fitted in the residence?

Activities and amenities

- [ ] Will the village rules affect your existing lifestyle?
- [ ] Can you have friends, family and grandchildren stay with you? Are there any restrictions?
- [ ] Will you be able to continue your hobbies e.g. music, gardening, swimming, bowling, games, craft work, woodwork?
- [ ] Are any pets permitted and if so, what type of pets?
- [ ] Does the village have regular resident functions and/or outings?
- [ ] How close and accessible are public transport facilities?
- [ ] How close is the village to your church, medical centre, library etc.?
- [ ] How close are other community facilities to the village? Is the local shopping centre within walking distance?
- [ ] Has the village arranged for a community bus for shopping trips and if so, how often is it available? Is there any other village transport available at other times?
- [ ] Do you have any doubts about the village? (If so, list them and discuss them with family, friends, financial or legal adviser or the residents' committee).

Government of South Australia

human services