

What if I have a dispute with a Retirement Village?

The following information outlines the steps you should take if you have a dispute with an operator of a retirement village.

You should initially attempt to resolve the dispute directly with the village operator. If you cannot resolve the dispute yourself, the Office for Ageing Well's Retirement Village Unit (RVU) may be able to assist with resolving the dispute.

Seek a resolution directly with the village operator

When a dispute first arises, you should follow your village's dispute resolution policy. A copy of this policy should be included in your residence contract. You could also request a copy of this from the operator.

The village dispute resolution process will likely require you to speak or write to the operator of your retirement village. It is recommended that you write to the operator so that you have a record of your efforts to resolve the matter.

You should include the following in your letter:

- > Your name and contact details. If you are representing a resident who no longer resides in a village be sure to include the name of the resident and details of the residence where they lived. You may also be required to provide proof of your ability to represent the resident, E.g. power of attorney or written authorisation from the resident.
- > Details about the dispute. Be sure to include a copy of the residence contract and any correspondence or other documentation which is relevant to the dispute.
- > Reference to the relevant provisions in your residence contract and/or retirement village legislation which relate to the dispute.
- > What you would like to see happen to resolve the dispute.
- > A reasonable timeframe in which you would like to receive a response; ten business days is usually sufficient.

Make sure you keep a copy of your letter.

Seeking further assistance to resolve the dispute

If you are unable to resolve the dispute by contacting the operator directly and following the village's dispute resolution policy, the Retirement Villages Unit may be able to provide you with assistance.

While the Retirement Villages Unit can provide you with advice and assistance on retirement village matters, it does not provide legal advice and assistance.

- > Contact the RVU for a Request for Assistance form (if you haven't already attempted to resolve the issue directly with the operator, we may refer you back to the operator).
- > The form will ask for information about the dispute, what steps have been taken to attempt to resolve the dispute, confirm your authority to act on behalf of the resident or their estate (if applicable) and to provide a copy of the residence contract and any other documentation relating to the dispute.
- > Send the completed and signed form back to the RVU by post or email along with any supporting documentation. Discussing the dispute in person with a Retirement Villages Officer is possible by prior appointment only.

- > Upon receipt of your request, your dispute will be assigned to a Retirement Villages Officer who will contact you within 10 business days to acknowledge receipt of the form.
- > The officer acts as an objective third party in attempt to resolve the dispute between you and the operator. The officer may provide information about the intent and interpretation of retirement village legislation and the residence contract.
- > The officer may request further information from you and from the operator to identify and clarify the issues in dispute.
- > The officer will seek a response to your dispute from the operator, discuss the operator's response with you and may provide advice and alternative solutions.
- > The officer will facilitate the exchange of information between the parties via telephone, written correspondence or face-to-face meetings and may assist the parties to identify and explore options for resolution.
- > The process may include conciliation through the RVU in an attempt to reach an agreement. Conciliation is a voluntary process and requires the parties to be willing to reach an agreement. Outcomes reached at conciliation are not legally binding.
- > The dispute resolution process will continue until the dispute is resolved or it appears unlikely the parties will be able to come to an agreement. The retirement villages officer cannot force a party to provide the outcome desired by the other party and cannot make a binding decision.
- > If the dispute is resolved the officer will provide you with a summary of the outcomes of your dispute and advise you that your request for assistance dispute file has been closed.

If the dispute cannot be resolved

If the dispute cannot be resolved the RVU will provide you with advice about your options. This may include making an application to the South Australian Civil and Administrative Tribunal (SACAT) for a legally binding determination. The RVU can provide you with information about how to make an application to the SACAT.

Disputes the Retirement Villages Unit can assist with

- > Disputes between a resident and an operator of a retirement village.
- > Disputes that relate to your residence contract and/or retirement villages legislation.

Disputes the Retirement Villages Unit generally cannot assist with

- > Disputes between residents of a retirement village.
- > Disputes which are of a kind handled by other authorities (electricity, internet, rates).
- > Disputes which are the subject of legal proceedings.
- > Disputes where you have engaged a solicitor to represent you.
- > Disputes which have already been dealt with by the RVU or by the tribunal.

Support and assistance

The Office for Ageing Well (OFAW) funds the Aged Rights Advocacy Service (ARAS) to provide an advocate for retirement village residents. If you are a resident of a retirement village and are uncomfortable dealing directly with the operator (or the RVU), ARAS is able to act as your representative. ARAS can be contacted by telephone on 08 8232 5377. ARAS does not charge for their service.

The retirement villages legislation allows a resident to be accompanied by any person of the resident's choosing at any meeting held to resolve a dispute. You may wish to have a friend or family member accompany you to any meeting about the dispute. Alternatively, you may wish to contact ARAS to request that the advocate accompanies you.

Breaches of legislation

If the Retirement Villages Unit becomes aware of a breach of retirement villages legislation during the dispute resolution process this will be dealt with separately by the Retirement Villages Unit and will generally not affect the outcome of your dispute.

General queries

If you want to contact the Retirement Villages Unit with a simple query, then you would not need to lodge a Request for Assistance form and a retirement villages officer will attempt to provide the information at the time you contact them.

You also do not need to provide a Request for Assistance form if you are requesting copies of Retirement Villages Unit's publications.

For further information and for a copy of the Request for Assistance form –

Download: www.sa.gov.au/topics/housing 'Aged care and retirement housing'

Telephone: 8204 2420

Email: retirementvillages@sa.gov.au

Post: Retirement Villages Unit, PO Box 196, Rundle Mall, Adelaide 5000

Disclaimer: In developing this information sheet, 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.

For more information:

Office for Ageing Well and Department for Health and Wellbeing

T: 08 8204 2420

E: retirementvillages@sa.gov.au

www.sa.gov.au/seniors/retirementvillages

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