

# 4. Dispute resolution

## Applicable law

Under section 45 of the *Retirement Villages Act 2016* and regulation 18 of the *Retirement Villages Regulations 2017* a village is required to develop a dispute resolution process. This process must be included in residence contracts. The process must include a reference to the right of a resident to be accompanied by a person of their choice at any meeting held to resolve a dispute

## General guidelines for communication

Many complaints which arise in a retirement village can be quickly and effectively resolved if handled well by village management. It is best to deal with a problem as quickly as possible. The longer it takes to resolve a complaint, the greater the chances are that the issue will escalate.

Good practice to remember when handling a complaint includes:

- > maintain a professional distance and do not become personally involved in the complaint;

- > ensure you understand the complaint – it is helpful to summarise the complaint back to the complainant to confirm it has been understood;
- > reschedule meetings to the next possible time if resident(s) are too angry or distressed to discuss the issues in a calm manner.

Having a clear dispute resolution process in place can benefit residents and operators by:

- > providing a clear, dedicated avenue for residents to pursue any issues they may have with management;
- > enables handling of the dispute within the village and can often mean no external dispute resolution body needs to become involved with the dispute;
- > is accessible to all parties;
- > means minor problems can be addressed early, which helps prevent major disputes;
- > helps managers improve communication and build strong relationships with their residents, which helps prevent future disputes;
- > promotes a harmonious living environment, where residents' concerns are taken seriously, and are addressed appropriately and impartially.



## The dispute resolution process

It is important that a dispute resolution process clearly outlines how a complaint will be handled. Steps which should be included in a dispute resolution process are:

- > a clear procedure outlining how residents can make a complaint including times and places where the complaint can be made;
- > how a complaint can be made, either verbally or in writing;
- > the person who will take the complaint and how it will be acknowledged;
- > timeframes in which the complaint will be acknowledged and a timeframe in which residents will receive an initial response to the complaint;
- > what steps the operator will take to deal with the complaint and how the resident will be kept informed as to progress of the complaint;
- > processes which the resident can follow if the complaint is not resolved such as assistance from the Office for Ageing Well or making an application to the South Australian Civil and Administrative Tribunal.

## Disputes between residents

The Office for Ageing Well and the South Australian Civil and Administrative Tribunal cannot become involved in disputes between residents. Communication between residents should be encouraged as discussing the complaint may lead to a solution.

The general guidelines for dispute resolution should be followed when a dispute occurs between residents.

When assisting in resolving disputes between residents an operator should also:

- > be fair to both parties and not take sides;
- > come up with several options and let the residents decide on a solution;
- > advise the parties they may contact Community Mediation Services for free mediation.

## Example dispute resolution process

- > Resident makes a complaint.
- > The complaint is acknowledged and a record is made of the complaint.
- > Plan the dispute resolution approach and inform parties including details of the timeframe in which residents will receive an initial response to the complaint.
- > If the dispute is resolved easily, inform the complainant of the outcome and make a record of the complaint and resolution.
- > Seek any further required information in a timely manner.
- > Talk to any other parties as soon as possible about the matter.
- > Provide a response in the required timeframe. If it is not possible to meet this timeframe, keep the resident informed and provide information about the new expected timeframe.
- > Provide a proposal or a number of proposals for resolving the dispute to the resident.
- > Follow through on any agreed resolution and ensure all parties are aware of the timeframe in which any actions will be undertaken. Provide confirmation when all agreed actions are completed.
- > If the dispute is resolved, inform the parties and make a record of the outcome as soon as practicable and place a copy on the complaint file. If not, inform the complainant that they may seek assistance from the Office for Ageing Well or the South Australian Civil and Administrative Tribunal.

If the above process does not resolve a complaint, the next step may be a more formal approach involving a meeting between all the parties. Suggest a date(s), time and venue to discuss the matter.

If the parties are unable to resolve the dispute at the meeting, then either party has the option of seeking assistance through the use of an informal or formal mediator.

An informal mediator:

- > should be a person chosen by agreement between the parties;
- > could be a member of the staff employed by the village if all parties are in agreement;
- > should not be a member who is party to the dispute.

Formal mediation can be requested through the Office for Ageing Well.

In conducting a mediation, a mediator must:

- > give the parties to the mediation process every opportunity to be heard;
- > allow due consideration by all parties for any written statement submitted by any party;
- > ensure that natural justice is accorded to the parties to the dispute throughout the mediation process;
- > not determine the dispute.

If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute through the South Australian Civil and Administrative Tribunal in accordance with section 46 of the *Retirement Villages Act 2016*.

For more information:

**Office for Ageing Well  
Retirement Villages Unit**

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