

Living in a retirement village fees and charges

Living in a retirement village incurs several costs, 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. The most commonly established or referred to fees and funds in villages are recurrent charges, capital replacement and long-term maintenance (sinking fund).

Under the *Retirement Villages Act 2016* (the Act) and the *Retirement Villages Regulations 2017* (the Regulations) all village funds and their purpose are required to be outlined in your residence contract. All fees and charges which you are responsible for should also be included in your disclosure statement.

Recurrent charges/maintenance fees

Recurrent charges are a fee, charge or other amount 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 e.g. fortnightly or monthly. This fee may also include a contribution towards other village funds which are used to meet capital replacement and/or long-term maintenance costs. Recurrent charges for which you are responsible must be 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)
- > property management (e.g. council rates, insurance)
- > 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 costs in addition to your recurrent charges.

Absence from the village

If you are absent from a retirement village for a continuous period of at least 28 days, payment for any personal/additional services will cease after the 28 days have elapsed. You should clarify with the operator what proportion of your recurrent charges are for personal/additional services (e.g. where meals are provided, you will not be charged for food but you will be expected to pay a salary component for the provision of meals).

Capital fund

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

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 service charges

These charges relate to services specifically provided to you on a personal needs basis, such as cleaning of your residence, care services, separate meals or meals which meet special dietary requirements.

Fees and charges increases

All fees and charges are subject to increases. However, recurrent charges cannot be increased beyond a level deemed to be reasonable. Copies of the financial statements presented at the last annual meeting of residents are required to be provided with the residence contract and can give you an indication of previous increases in recurrent charges.

When fee increases occur

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, who then have an opportunity to question the statements. Recurrent charges cannot be increased beyond a level shown to be reasonable in view of those accounts. The annual meeting must be held within four months of the end of the village's financial year. An operator may require the payment of the increase in the recurrent fee to be backdated to the beginning of the financial year.

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. This may vary from village to village, depending on its size and the needs of residents and operators.

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 unforeseen 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. This can only occur under the following circumstances:

- > at least 15 business days written notice of the meeting, containing a statement of the proposed resolution, must have been given to all residents
- > the resolution must have been passed by a majority of not less than three-quarters of the number of residents who were entitled to vote at the meeting (i.e. one vote per residence either in person or by absentee vote).

Meetings

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 decision at a meeting by giving the convenor 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:

- > an audited statement for the previous financial year of income received from residents and other sources and expenditure of that income for the previous financial year (for all funds)
- > a statement of estimated income from residents and other sources and proposed expenditure of the income for the current financial year (for all funds)
- > if the expenditure for the current financial year includes any expenditure towards management fees or administrative costs the statements must include a description of each item to which the expenditure relates. If the expenditure is apportioned between more than one retirement village or other businesses, how this is calculated.

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 to provide information and/or clarification of financial statements or proposals presented.

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.

Consultation 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 question put by a resident. An operator cannot commence redevelopment without giving due consideration to a resident's rights arising from a contract.

There are a number of matters within the Act and Regulations which require an operator to consult with all residents of a retirement village, these include:

- > a new operator of a retirement village must consult with all residents before the change in operator occurs
- > changes to the village's dispute resolution policy
- > establishing a disputes committee in connection with the dispute resolution policy
- > changes to the residence rules
- > changes to a 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:

- > notify residents about any matter that could have a significant impact on their financial affairs, the amenity of the retirement village or their way of life
- > provide residents with an opportunity to respond to such matters within a reasonable time
- > consider any response provided by residents.

***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.*

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