

Consultation with residents

One of the Objects of the *Retirement Villages Act 2016 (SA)* (the Act) is to ensure that operators properly consult with residents about matters affecting their residence in the retirement village. The Act and the *Retirement Villages Regulations 2017 (SA)* (the Regulations) outline the requirements for when an operator must consult with all residents and the matters on which an operator is required to consult with a residents' committee.

When consultation with all residents is required

Before any redevelopment of a retirement village commences, section 37 of the Act requires you to convene a meeting of residents and present a plan of, and report on, the proposed redevelopment. You must also answer any reasonable questions put by a resident. You cannot commence any redevelopment without giving due consideration to a resident's rights arising from the resident's residence contract and, if relevant, reasonable arrangements have been put in place for the provision of alternative accommodation.

Under section 36, a person who is to be a new operator of a retirement village must also consult with all residents before the change in operator occurs. The person who is to be the new operator of the village must convene a meeting of all residents to present a report on any changes proposed for the retirement village and the new operator's plans for the future management and operation of the retirement village. The new operator must also answer any reasonable question put by a resident.

The Regulations, Schedule 1, Operator and Residents Code of Conduct, Clause 6, also details matters under which you must ensure there is reasonable consultation with residents of the retirement village. These matters include (but are not limited to):

- > any changes to your dispute resolution policy
- > establishing a disputes committee in connection with the dispute resolution policy
- > any changes to the residence rules
- > any changes to your remarketing policy
- > any matter that could have a significant impact on residents' financial affairs, the amenity of the retirement village or their way of life.

For the purposes of consultation with residents, under clause 6, you will be taken to have taken steps to ensure reasonable consultation with residents of the retirement village if you at least:

- > notify residents in relation to 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.

Consultation with a residents' committee

The Act and Regulations also prescribe when consultation is to occur with a residents' committee. Consultation with a residents' committee should occur in addition to the consultation outlined in Clause 6, which is described on the previous page.

Consultation with the residents' committee on the annual budget

Section 39 of the Act details the mandatory consultation that must occur with a residents' committee in relation to the annual budget. Before an annual meeting is held you must convene at least two meetings with the members of the residents' committee to discuss the financial statements to be provided at the annual meeting under section 33(6)(a). The meetings, or one of the meetings, need not be convened if the residents' committee advises in writing that it does not require the meeting or meetings to be held.

To convene a meeting of the residents' committee about the annual budget, you should send to each member of the residents' committee a written notice setting out the time, place and business agenda of the meeting at least 10 business days before the date of the meeting. The meeting must be chaired by the operator or by a representative of the operator who is authorised to speak on behalf of the operator and give responses to questions put at the meeting.

Other consultation with a residents' committee

Clause 5 of the Code of Conduct outlines a range of matters on which you must undertake reasonable consultation with a residents' committee. These matters include:

- > maintenance issues raised to the residents' committee by residents
- > any proposal to alter or improve a building, fixture or fitting if residents will be expected to finance some or all of the capital or recurrent costs of the work, except if the costs have already been included in information provided at the annual meeting or the costs will not exceed \$5,000 in total
- > the distribution of information to residents
- > the establishment of social or recreational programs at the retirement village
- > the appointment of a trustee (or new trustee) for the purposes of the retirement village scheme, or any proposal to alter the functions or duties of such a trustee
- > any other matter agreed between the committee and the operator;
- > any proposed change to a service or facility provided at the retirement village that is reasonably expected to result in increased costs to residents beyond any increase shown in the financial statements provided to residents at a village's annual meeting or in a loss of amenity.

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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