



Office for the Ageing

Best practice for retirement village residents' committees



Government
of South Australia
SA Health

Disclaimer: The information in this booklet relates to the *Retirement Villages Act 2016* and the *Retirement Villages Regulations 2017*. 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 the Ageing recommends that you seek your own legal advice should you require interpretation of the legislation.

A well-run residents' committee can greatly contribute to creating a harmonious village environment. This guide aims to provide residents' committees with information about best practice to assist in the effective and efficient running of a residents' committee, and to promote good relationships between operators, committee members and residents.

Information in this guide reflects legislative requirements under the *Retirement Villages Act 2016* (SA) (the Act) and the *Retirement Villages Regulations 2017* (SA) (the Regulations) along with suggestions for best practice in implementing the legislative requirements. The suggestions for best practice are not legally binding however are recommended for use by residents' committees.

This guide also includes reminders and tips to assist residents' committees in implementing best practice in retirement villages. Where an action is required by legislation, the relevant section is included in the guide.



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Introduction

The *Retirement Villages Act 2016* (the Act) and *Retirement Villages Regulations 2017* (the Regulations) describe the rights and statutory obligations of retirement village operators and residents. The Act and Regulations can be purchased from:

Service SA Government Legislation Outlet

EDS Centre

108 North Terrace, Adelaide, SA 5000

Telephone: **13 23 24**

There is an online shop at www.service.sa.gov.au or South Australian Acts and Regulations can also be accessed free of charge at www.legislation.sa.gov.au

Section 38 of the Act provides that residents of a retirement village may elect a residents' committee.

The function of a residents' committee is to consult with the operator of the retirement village or a representative of the operator, in relation to matters of interest to residents and to represent the interests of residents (section 38(2)).

Reasons for formation of a residents' committee may vary across villages. One village may initially form a committee to organise social events of the village while another village may form a committee to enable residents to have more involvement in the formation of a budget for the village.

The activities of a residents' committee may change from time to time, however a residents' committee should aim to always reflect the interests and voices of residents of the retirement village.

Reminder

A residents' committee is not a decision-making body and while the Act and Regulations require an operator to consult with a residents' committee on a number of items, the operator is ultimately responsible for making decisions in relation to the village.

Getting started – establishing a residents' committee

Establishing a residents' committee in the right way is important as the Act and Regulations contain certain requirements about the election of a residents' committee.

The most important thing to determine when considering the establishment of a residents' committee is whether residents of the village agree that a residents' committee is wanted and/or needed. The election of a residents' committee is not mandatory.

There are certain advantages to electing a residents' committee under the Act. A residents' committee has a number of consultative rights in relation to a village's annual budget, resolution of disputes and other matters as well as the power to convene a formal meeting of residents.

Gauging the interest of residents in establishing a residents' committee can be done in a number of ways including:

- > a survey of all residents
- > a meeting of all residents
- > an article in the village's newsletter.

The operator or village manager is able to assist in determining what residents' views on this issue are; however their role should be limited to assisting in the consultation process.

Electing a residents' committee for the first time

If residents of a retirement village have expressed interest in forming a residents' committee, the committee needs to be elected at a village meeting held under section 33(5) of the Act. The operator or their representative should call a meeting of all residents under this section. The operator or their representative are required to call this meeting as a residents' committee has not yet been formed under the Act.

A meeting under section 33(5) can be convened by sending each resident, at least 10 business days before the day of the meeting, a written notice setting out the time and place of the meeting, and the business to be conducted at the meeting.

A suggested agenda for the initial meeting is:

1. residents vote on the establishment of a residents' committee
2. if residents vote in favour of forming a committee - determine within the meeting (and by vote if necessary) how many members will be on the new residents' committee
3. election of the committee – this may happen at this meeting or a subsequent meeting if preferred.

If there are more nominations than positions for residents' committee members it may be appropriate that a subsequent meeting is called under section 33(5) of the Act to elect the committee. This will provide residents with the opportunity to consider the nominees or to call for any further nominees from residents who were not present at the initial meeting.

It is important to ensure that all residents have the choice to be involved in the process of electing a residents' committee and given the opportunity to vote - whether a resident chooses to vote or not is their own decision.

Establishing residents' committee rules

Section 38(9)(a) of the Act allows a residents' committee to determine its own procedure, subject to any requirements of the Regulations.

Once residents have elected a committee, the newly-formed residents' committee should meet to establish its procedures (or rules).

Items which may be included in residents' committee's rules are:

- > objects of the committee
- > minimum and maximum number of committee members
- > committee positions
- > how election for committee positions will occur
- > sub-committees of the committee and their rules
- > procedures for committee meetings
- > procedures around the committee's funds
- > process for making changes to the rules
- > voting requirements.

A residents' committee should ensure its rules do not conflict with the Act, in particular section 38 which deals specifically with residents' committees.

The rules of a residents' committee cannot override the Act or Regulations or any other laws. If there is an inconsistency between the Act and/or Regulations and a rule of the residents' committee, the legislation will override the rule.

Should a residents' committee wish to make changes to its rules, Regulation 12(7) requires the committee to undertake reasonable consultation with residents before determining or amending any procedures.

Example rules for a residents' committee are at the end of this booklet.

How many members should be on a residents' committee?

The number of members on a residents' committee may vary between villages. The residents' committee rules should outline a minimum number of members needed to form a committee as well as a maximum number of members.

Factors which it may be helpful to take into account when deciding on the numbers for a residents' committee include:

- > how many residents reside in the village
- > level of resident interest in joining the committee
- > any particular focus of the residents' committee (was there a particular reason the committee was formed? For example, was the committee formed with the intention of organising social events for residents, or to consult with the operator on the village's finances?)
- > keeping the number of committee members as an odd number can be helpful to prevent stalemates when the residents' committee votes on matters.

Members of a sub-committee do not have to be elected to the committee however it can be useful to ensure at least one committee member is on any sub-committee.

Commonly found positions on a residents' committee and their roles

- > the **chairperson** (or president) runs meetings and usually represents the organisation at public events
- > the **deputy chairperson** (or vice-president) takes on the role of the chairperson when that person is not available and assists the chairperson in their ongoing duties
- > the **treasurer** (or financial officer) deals with the financial affairs of the committee, and
- > the **secretary** supports the chairperson in ensuring the smooth functioning of the committee. The secretary is responsible for ensuring meetings are effectively organised and minuted, maintaining effective records and administration including ingoing and outgoing correspondence.

The committee may also have a number of "ordinary committee members". These members may be responsible for particular tasks or projects depending on the needs of the village.

Can a residents' committee member hold more than one position?

Ideally, residents' committee members will only hold one position although it is possible for members to hold more than one position should the need arise.

Illness, not enough nominations to fill all committee positions and a requirement for specialised skills or knowledge can all be reasons for a member to hold more than one position within a residents' committee.

It is worthwhile ensuring that the residents' committee's rules address under what conditions a member can hold more than one position, and if the committee is able to co-opt another resident to fill a position which becomes vacant.

Can a rental tenant who is living in the village be on the residents' committee?

Under the legislation residents of a retirement village may elect a residents' committee (s38(1)), and only a resident of the retirement village may be a member of such a committee (s38(3)).

Section 57 confirms that a person who resides in a retirement village under a rental tenancy agreement does not become a resident of the retirement village. A rental tenant is not considered a resident under the legislation and should not be on the residents' committee.

However, renters still reside in the village and participate in village life. It can cause division to exclude renters from being involved in village happenings. There are ways to work with the legislation and to allow a rental person to be included in the activities of a residents' committee while not being a committee member. In some villages rental tenants elect a 'rental representative' who can attend committee meetings in that capacity however they do not have a right to vote. It may be that a rental representative only attends the committee meeting for a portion of the meeting.



Consulting with residents

The function of a residents' committee is to consult with the operator of the retirement village, or a representative of the operator, in relation to matters of interest to residents and to represent the interests of the residents (section 38 of the Act).

In order to fulfil its functions, a residents' committee should be familiar with the matters on which an operator is required to consult with them under the legislation.

Issues on which an operator is required to consult with a residents' committee under the legislation are outlined below.

Consultation on a village's annual budget

Section 39 of the Act details the mandatory consultation that must occur with a residents' committee in relation to a retirement village's annual budget. Before an annual meeting is held an operator 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).

In some instances, a residents' committee will not require consultation with an operator about the annual budget or the matters needing to be dealt with will be finalised at the initial meeting. In these situations the residents' committee is able to advise the operator in writing that the meetings, or one of the meetings, are not required.

To convene a meeting of the residents' committee about the annual budget, the operator 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.

If a residents' committee has appointed a financial sub-committee to handle matters relating to the budget, then the operator should meet with this sub-committee.

Other consultation with a residents' committee

Clause 5 of the Code of Conduct in the Regulations outlines a range of matters on which an operator 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.

It is important that the residents' committee has ongoing communication with residents of the village in order to provide feedback to the operator about residents' views on these issues.

A residents' committee should establish the most effective way in which they can distribute information to residents as well as ways in which residents can easily provide their feedback to the residents' committee. When deciding how the residents' committee will distribute information, consideration should be given to any associated costs and how these will be covered.

Methods for keeping residents up to date with the committee's activities and seeking feedback include:

- > via email
- > distribution of a village newsletter
- > letterbox drops with important information
- > putting up notices on the village notice board
- > providing residents with current contact details for the committee
- > distributing an invitation for residents to attend residents' committee meetings
- > distribution of residents' committee agendas and minutes.

Members of a residents' committee may have differing opinions on matters. The residents' committee's responsibility is to convey to the operator the views of residents of the village and not the personal opinions of committee members (keeping in mind that sometimes the opinions of residents will also be divided).

Sometimes a resident may raise an issue with a committee member which is beyond the scope of the residents' committee. In these types of situations it may be preferable to refer the resident to the village's dispute resolution process or seek advice from one of the organisations listed at the end of this guide.

In determining if the residents' committee can assist a resident with an issue consider:

- > Does this issue fall under the objects of the committee?
- > Is the issue a contractual or legislative issue?
- > Does the issue affect all residents or is it a personal issue?
- > Is there another organisation that will be able to more effectively assist the resident?

Being part of a residents' committee can be both challenging and rewarding. It is important for members to try to maintain a balance between activities they enjoy personally and their role as a committee member.

Members could consider setting reasonable times, contact methods or procedures on when and how residents can contact them with problems. A healthy and relaxed committee member will always be better equipped and able to help others.

Working with the operator

Where a residents' committee and village operator or manager work well together it can foster a positive and productive village culture.

However, maintaining strong and healthy professional relationships can take consistent effort from all parties. Below are some suggestions on how the village manager or operator and the residents' committee can work together with a mind to maintaining a healthy ongoing relationship:

- > providing an invitation to the village manager to attend residents' committee meetings (or parts of meetings that are relevant)
- > provision of a copy of correspondence such as residents' committee newsletters, minutes, memos etc to the manager
- > a formalised process of communication eg. email, coffee meetings
- > an agreed process about how to deal with any concerns.

It is important to remember that disputes and conflicts are part of everyday village life. It is expected that there may be differing opinions within a village community and effort should be made to ensure that all actions taken aim to prevent disputes or assist in their smooth resolution.

When preparing for a meeting with an operator to discuss village issues or to resolve a dispute, it can be helpful to write a list of topics or even a script to keep the meeting on track. It will help ensure that issues are not forgotten and can assist parties to communicate their thoughts more clearly.

When working with an operator, it is good practice to confirm any verbal conversations in writing. If the residents' committee is writing to the operator with a specific query, it is recommended that the letter or email include a requested response date. Fourteen days is usually viewed as a reasonable timeframe. The operator would then be able to contact the residents' committee if they are unable to respond by this date.



What happens if there is a dispute between the operator and the residents' committee?

In most situations, issues that arise between operators and residents can be resolved quickly and effectively if clear communication lines are established. The best way to avoid a dispute is to deal with the problem at an early stage before it escalates into a major issue.

However, if a dispute occurs and cannot be resolved easily, residents (including residents' committee members) should refer to the village's dispute resolution policy. Section 45 of the Act and Regulation 18 requires the village to develop and distribute a written dispute resolution policy for a retirement village.

The Office for the Ageing mediation service

The Office for the Ageing can provide a mediation service, where assistance from an independent third party may help in resolving a dispute. The mediator can provide advice to the parties concerning their rights and obligations under the Act and Regulations.

The mediation process can assist disputing parties reach agreement by mutual consent. Resolution is preferable because it is not a forced compromise; therefore parties are more likely to be satisfied with the result and to fulfil any agreed outcomes of mediation.

South Australian Civil and Administrative Tribunal (the Tribunal)

Role of the Tribunal

If a dispute arises between a resident and an operator of a retirement village, either party is entitled to apply to the Tribunal for resolution of the matter. The details and nature of a dispute may impact on whether a residents' committee or an individual resident should apply to the Tribunal for resolution of a dispute.

The Tribunal is a separate and independent body providing a prompt and low cost way of resolving disputes. The Tribunal has the authority to make orders that are legally binding and enforceable. The Tribunal is limited by section 46 of the Act as to what determinations it can make and it is worthwhile considering what is being sought from the Tribunal before an application is made.

The Tribunal can hear disputes concerning (but not limited to):

- > breaches of the residence contract
- > breaches of the Act
- > harsh or unconscionable conduct by the operator
- > full or part payment of an exit entitlement

The Tribunal cannot hear disputes between residents, or any dispute which is not related to the Act and Regulations or the residence contract.

The Tribunal may also decline an application if it considers it appropriate to do so. Reasons for this may be:

- > the matter could be more adequately dealt with under the village's dispute resolution policy
- > the matter is more appropriately dealt with by another court or other tribunal
- > the matter is frivolous or involves a trivial issue or amount
- > or for some other reason, it is not appropriate to proceed with the matter.

Mediation through the Tribunal

The Tribunal also offers mediation services. Applicants are able to request for a matter to be mediated by the Tribunal when completing an application form or a matter can be recommended for mediation by the Tribunal Member during a hearing.

If residents have any questions relating to a tribunal application please contact the South Australian Civil and Administrative Tribunal by telephone on 1300 723 767.

Visit www.sacat.sa.gov.au for details about how to make an application to the Tribunal including information about costs.



Residents' committee meetings

There are three types of meetings that a committee will generally hold:

- > meetings of the residents' committee
- > general meetings of all village residents called by the committee
- > annual meetings of all residents called by the residents' committee.

Meetings of the committee

Regulation 12(1)(a) provides that a residents' committee may convene a meeting of the committee at any time.

This Regulation refers to regular meetings where the committee deals with its day to day business.

The manner in which these meetings are conducted will be determined by the committee's rules.

Under Regulations 12(4) a residents' committee must cause accurate minutes to be kept of proceedings at a residents' committee meeting. Within 10 business days of a meeting of the residents' committee, the committee must make the minutes available for inspection by residents in a manner that is easily accessible to residents as well as providing a copy of the minutes to the operator of the retirement village.

These minutes should not disclose personal information regarding residents. More details about minutes is provided later in this guide.

A residents' committee is required to retain a record of its minutes for at least seven years. If there is no residents' committee for the retirement village, the operator is required to retain the record of minutes.

Under Regulation 12(6) if a residents' committee appoints a sub-committee, each sub-committee must, when requested to do so by the residents' committee, provide a report on its activities to the residents' committee. This report would usually be provided to a meeting of the residents' committee. For example, a social sub-committee may provide the residents' committee with a report on its scheduled events and activities.

Annual meeting of village residents called by the residents' committee

Under Regulation 12(1)(c) a committee is required to convene a meeting of all residents on an annual basis. Under Regulation 12(2)(a) the annual meeting will be convened in accordance with section 33(5) of the Act.

When convening an annual meeting under this section the residents' committee must send to each resident:

at least 10 business days before the day of the meeting, a written notice setting out:

- > the time and place of the meeting; and
- > the business to be transacted at the meeting.

The notice convening the annual meeting must be accompanied by:

a statement of accounts showing the committee's income and expenditure in respect of the previous financial year. The statement must be signed by a person (not being a person who was a member of the residents' committee in the financial year to which the accounts relate) who has verified the accuracy of the accounts (Regulation 12(2)(b)).

In addition to the above requirements, the election of residents' committee members must be held at the residents' committee annual meeting (Regulation 12(2)(c)).

The residents' committee annual general meeting must also follow (where applicable) the residents' committee's own rules.



General meeting of all residents called by a residents' committee

Section 33(4) of the Act allows a residents' committee to convene a meeting of all residents.

A residents' committee may also call a meeting of all residents from time to time. Reasons for calling one of these meetings may include amending the committee's rules or consulting with residents on a topic of importance within the village. Some residents' committees may hold meetings of all residents every two to three months to provide an update on the committee's activities.

When a residents' committee convenes a general meeting of all residents, the meeting should be convened in accordance with section 33(4) of the Act.

This section requires that at least 10 business days before the day of the meeting, the committee sends to residents a written notice setting out:

- > the time and place of the meeting; and
- > the business to be transacted at the meeting.

Minutes of an annual meeting of all residents and general meetings of all residents called by the committee

Under section 34(3) the convener of a meeting must cause accurate minutes to be kept of proceedings at a meeting. Under section 34(4) the convener of a meeting under section 33 must, within 10 business days after the meeting, make minutes of the meeting available for inspection by residents in a manner that is easily accessible by residents.

More detail about producing minutes of meetings is discussed later in this guide.

There are many studies showing the benefits of adding in a break to a meeting, so if a longer meeting is needed, consider adding in a coffee/tea break. It may also help to keep the meeting on track.

It can also be beneficial to place a time limit on a meeting, e.g. 2 hours. If further discussion is needed at the end of the allocated time consider the following options:

- > *if only a small amount of additional time is needed to resolve the discussion, all parties could agree to extra time*
- > *organise for a future meeting to continue discussions.*

Providing residents with a notice of a meeting

The following information can apply to any meeting of all residents convened by a residents' committee including an annual meeting and general meetings.

Forming a meeting agenda

Forming an accurate and clear notice (or agenda) for meetings will assist in providing residents with a better understanding of the purpose of the meeting and ensure the meeting is run effectively.

An agenda for a residents' committee's annual meeting or a meeting of all residents may include:

- > approval of previous minutes by a formal motion
- > chairperson's report
- > treasurer's report
- > an update on the committee's activities
- > discussion and update on the village's finances (including any money the residents' committee may have collected) and/or spent
- > moving of motions for the committee to undertake certain actions or projects
- > propose and decide on any changes to the residents' committee rules
- > any other business or general business (where residents are provided with an opportunity to ask questions and raise issues).

Commonly, notices for meetings include a catch-all item such as "any other business" or "general business". This allows members to discuss any additional matters which may arise at the meeting and that have not been included in the notice.

Things to consider when preparing a notice under section 33(5) for a meeting of all residents

When preparing the notice for a meeting of all residents and any accompanying documentation it is best practice to consider the following points:

- > using plain language and an appropriate font so the notice is sufficiently clear to the resident
- > include details so that any ordinary person without knowledge of the issue, is able to understand what action is proposed for the meeting (such as including relevant attachments)
- > ensuring all relevant information is included
- > When the notice must be given?
- > What will the notice contain?
- > How will the notice be provided to all residents?
- > What must accompany the notice in accordance with the Act and Regulations?
- > What to do if the meeting is adjourned?

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- > What agenda items should be included on the notice?
 - > Are there any other requirements of the Act and Regulations that need to be considered?
 - > Are there any other requirements of the residents' committee rules that need to be considered when writing the notice?

In the case of an annual meeting, it is also important to encourage residents to submit any questions in writing before the meeting to ensure that any information required to answer the question can be gathered prior to the meeting.

A guide to measure time for giving notice

The Act states that a meeting of all residents can be convened by sending each resident, at least 10 business days before the day of the meeting, a written notice setting out the time and place of the meeting, and the business to be conducted at the meeting (section 33(5)).

Ensuring a notice is provided within 10 business days can at times be confusing. When counting days:

- > do not count the day on which the notice is sent, and
- > the day on which the meeting is held can be counted.

Including a motion in the meeting notice

A notice for an annual meeting or a meeting of all residents may include a proposed motion on a particular issue.

Including the proposed motion with the written notice gives residents the opportunity to consider the motion before the meeting takes place.

Motions, amendments to motions and resolutions are discussed in more detail later on in this guide.

Proceedings at an annual general meeting and meetings of all residents

The person who chairs the meeting (usually called the chairperson or president) guides (or runs) the meeting. As long as the legal requirements are met, the chairperson may run the meeting in as relaxed or formal a style as they believe is appropriate.

A chairperson needs to take into account any requirements imposed by the Act, the Regulations and the residents' committee's rules when establishing meeting procedures.

Each committee and chairperson will develop its own customs, practices and "culture" over time. These may not be formally reflected in the rules. For this reason, it is important to regularly review the committee's rules, to ensure meetings are conducted correctly or amendments are made where necessary.

For example, a committee may provide all residents with a copy of a report of a general nature along with the notice for the meeting, summarise the report's outcome at the meeting and provide residents at the meeting an opportunity to ask questions or make comment on the report.

A handy way to guarantee residents' committee rules are regularly reviewed is to include them as a standing agenda item at each residents' committee annual general meeting of the retirement village.

How many people need to be at a meeting of all residents?

The Act and Regulations do not specify a 'quorum' – that is a particular number of residents - required to attend an annual general meeting or a meeting of all residents.

The number of residents who attend a village meeting convened under section 33(5) of the Act will differ from village to village and will be influenced by a range of factors including residents' interest in the agenda items and the number of residences within the village.

Motions put to a meeting of all residents

A motion is a proposal that a resident or residents' committee member puts forward prior to the meeting or at the meeting for an action to occur to address a particular issue. This proposed motion will generally be discussed and depending on the outcome of the discussion, voted on during the meeting.

Commonly the chairperson of the meeting will state the motion aloud and this will be recorded by the secretary or minute-taker in the meeting's minutes. Residents will then be able to vote on the motion. The residents' committee's rules may also address the procedure of moving motions within a meeting of all residents.

The procedure for a motion may follow the format below:

- > one resident moves the motion, and then
- > another resident seconds the motion.

It is common that residents may wish to change the wording of the motion, and if so then:

- > a resident moves an amendment to the motion,
- > another resident seconds the amendment to the motion,

If an amendment is proposed, seconded and put, the amendment must first be voted on. Then, the meeting may vote on the resulting motion (the amended motion, or, if the amendment is lost, the original motion).

What is a resolution?

A resolution is the result of a motion (or an amended motion) put before, and approved by, the meeting of residents.

There are two main types of resolutions:

- > 'ordinary' resolutions (often simply called a "resolution"), and
- > special resolutions.

The requirements under the Act for passing 'ordinary' and special resolutions are different and are discussed in more detail later in this guide.

Voting at a meeting of all residents convened by a residents' committee

Regulation 12(3) outlines the rules for voting at a meeting of all residents convened by a residents' committee.

Each resident present at the meeting has one vote on any question arising for decision at the meeting. If two or more residents are in occupation of the same residence in a retirement village, only one of them may exercise a vote at a meeting. If more than one resident purports to vote, the person presiding at the meeting (the chairperson) may determine which vote is recognised (Regulation 12(3)(c)).

Absentee voting

The Act introduces the ability for residents who cannot attend a meeting to cast an absentee vote.

A resident may exercise an absentee vote on a question arising for decision at the meeting by giving the residents' committee written notice of the proposed vote at least 24 hours before the time of the meeting (Regulation 12(3)(b)).

The way absentee voting is to be managed in a village may depend on the size and set up of the village. Voting by mail is one of the more common ways for absentee voting to occur.

When a residents' committee sends out a notice about a meeting at which a matter is to be voted on, the notice could include information for residents who cannot attend the meeting and wish to cast an absentee vote. For example, residents might be advised to contact the residents' committee's secretary to receive an absentee voting form.

If a resident advises they would like to cast an absentee vote for an upcoming meeting, send the resident a ballot and all the information necessary for the resident to mark the ballot properly and return it in a timely manner. The ballot should include provision for the resident to sign and print their name (to ensure that voting is undertaken by those who are entitled to vote).

It could be helpful to provide an envelope allowing residents to return the vote or set up a secure place where residents are able to return their ballot (for example, a locked box in the manager's office).

When an absentee vote is returned, the resident should be marked off as having voted for that residence.

Counting of the absentee votes should occur with at least two people to enable the counting to be confirmed as accurate. The absentee ballots should be retained until after the meeting.

It is important to note that absentee voting will only be possible in cases where the question to be voted on is known beforehand. If the question is changed at the meeting then the votes cast by mail should not be counted.

How many votes are needed for a resolution to pass?

The Act states that a decision at a meeting is to be determined by a simple majority of the votes cast by the residents voting at the meeting (in person or by absentee vote) (section 34(10)). A simple majority is when more than half of the voting residents vote "in favour of" (for) the resolution.

Special Resolutions made at a meeting of all residents

A special resolution means a resolution passed at a meeting of residents of a retirement village in the following circumstances:

- > at least 15 business days written notice of the meeting, containing a statement of the proposed special 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 (either in person or by way of an absentee vote exercised in accordance with the Act)(section 4).

A special resolution is only used in particular circumstances outlined in the Act and Regulations. In the case of a residents' committee, a member may be removed from office by a special resolution at a meeting of residents (section 38(6)).

Voting methods

There are various ways in which votes can be taken at a meeting. The most common methods are voting by a show of hands or by a poll (a vote in writing) conducted, submitted and counted at the meeting.

- > Voting by card – Each residence is provided with a voting card when they attend a meeting. When a matter is voted on, the resident can use their voting card to vote for or against the motion. This method is effective in ensuring that only residents who are eligible to do so, are casting a vote.
- > Voting by show of hands - Voting by show of hands can be difficult to administer if there are a large number of people voting at the meeting. The chairperson may ask for help (usually from the secretary, a committee member or another independent resident) to count the votes. It may be necessary for the chairperson to make a list of the names of people voting to assist in counting votes. This will ensure only eligible residents place a vote.
- > Voting by division of the room into 'for' and 'against'. It has the advantage of being accurate and straightforward to administer. When considering this option, the chair-person should consider if all residents are eligible to vote and if any residents have mobility concerns.
- > Voting by poll/ballot. The advantages of poll/ballot voting include - the votes are made in writing, all people entitled to vote have an opportunity to do so and absentee votes are able to be counted.

It is important to remember to check the residents' committee rules for any reference to correct voting methods and to be open to varying methods should any reasonable concerns be raised by residents.

What if a vote is tied?

If a vote is tied, it is commonly viewed that the motion is lost. It may be possible that with further discussion and consultation among those present at the meeting, an amended motion could be prepared and a second vote occur.

It is worthwhile checking the residents' committee rules to address this circumstance, and if it is not included, it may be beneficial to consider amending the rules to address what happens if a vote is tied.

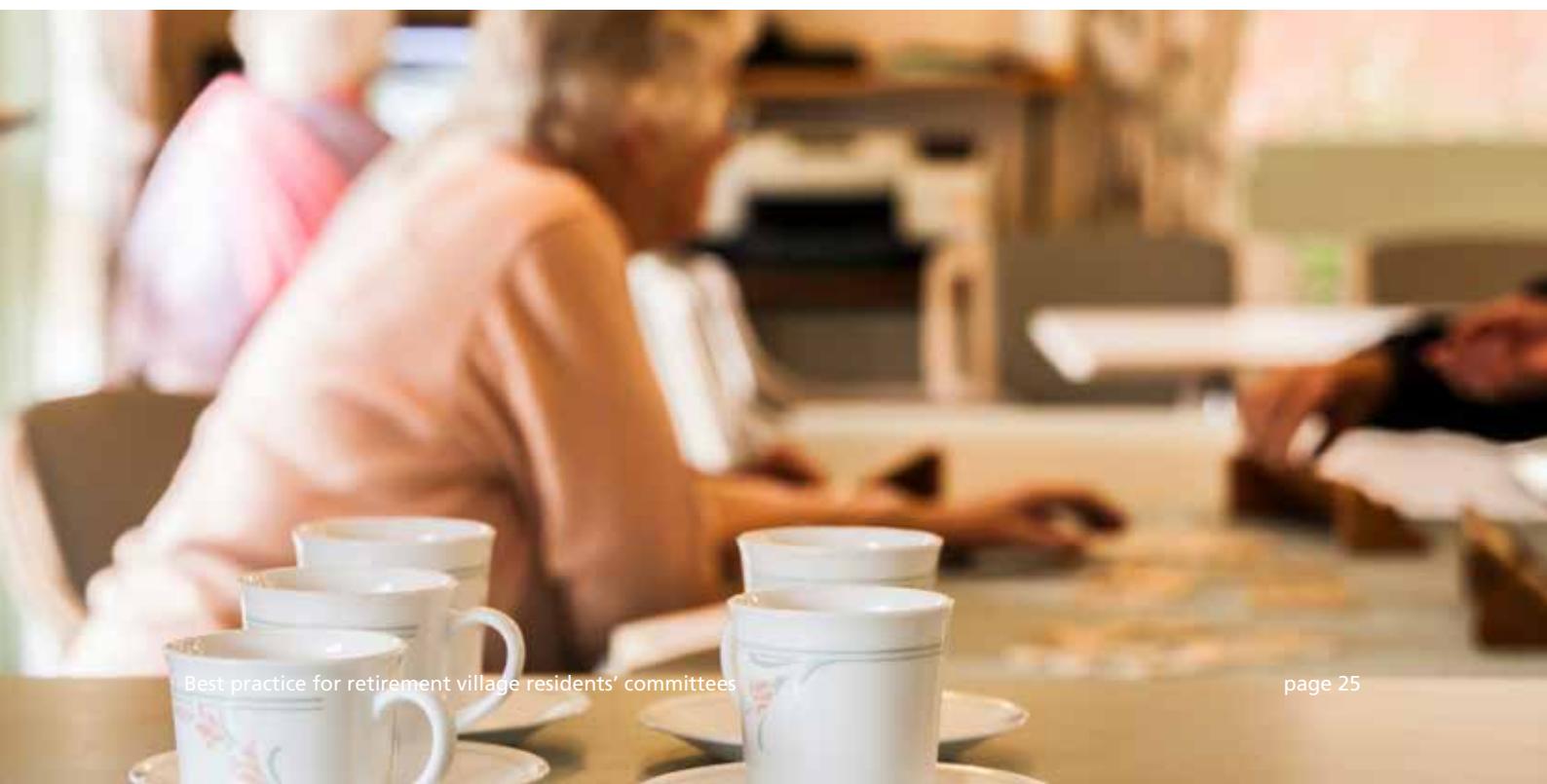
How to run an effective meeting

Good meetings generally come from planning, preparation and communication. Below is a list of considerations that could be of assistance when planning and holding residents' committee meetings.

- > start on time
- > finish on time
- > follow the agenda and focus on the discussion
- > set dates for meetings in advance
- > send out reminders for meetings
- > send out an agenda with the supporting documents
- > ensure there is enough time to discuss agenda items before making decisions
- > choose a convenient and accessible location to meet
- > introduce new members.

Consider developing a list of 'meeting rules or behaviours'. These could include:

- > treat each other respectfully
- > don't interrupt one another
- > listen with an open mind
- > attack the problem not the person
- > stay on topic.



Minutes – preparing, storing and distributing

Preparing and keeping minutes

The presentation and format of minutes will vary between residents' committees. The Regulations include certain requirements regarding the distribution and keeping of minutes.

Some of the requirements include that where a residents' committee meeting is held, a residents' committee must;

- > cause accurate minutes to be kept of the proceedings at a residents' committee meeting within 10 business days after each residents' committee meeting (Regulation 12(4)(a))
- > make the minutes available for inspection by residents in a manner that is easily accessible to residents (Regulation 12 (4)(b)(i))
- > ensure that the minutes do not disclose personal information about residents (Regulation 12(4)(c)).

Minutes of meetings of all residents (both annual and general) called by the residents' committee must also be made available for inspection by residents in a manner that is easily accessible to residents (s34(4)(b)).

Accurate minutes can also assist in preventing disputes by providing a record of what was discussed and/or was agreed to at a meeting.

Minutes should be presented in a way that is easy for residents to read. It is recommended that the font should be a minimum size of 12 points.

Below is a helpful list of possible considerations when preparing the content of minutes.

- > Name of residents' committee and heading eg. Residents' committee meeting, annual general meeting
- > Date, place and opening time
- > Name of chairperson
- > Names of members present (if reasonable) and other people present, such as observers
- > Names of non-members who are attending (if any)
- > Names of those people who have sent apologies (for not attending)
- > Confirmation of previous meeting's minutes
- > Record of motions, resolutions and amendments
- > Names of the people who move and second motions
- > Short summaries of the debates on motions
- > The method of voting on motions etc (for example, show of hands, poll) and the numbers of votes for, against and abstaining
- > Results of voting (for example, passed, failed or adjourned)
- > Titles (and any relevant details) of documents or reports tabled
- > (If relevant) cross references to previous minutes or policies of the organisation
- > Details of next meeting
- > Closing time
- > List of tasks arising from the minutes and name of person responsible for each.

Keeping accurate minutes

Ensuring the accurate content of minutes is a requirement of the Regulations (Regulation 12(4)(a)). Minutes do not need to include a word-for-word recount of what was discussed at a meeting however they should include a recap of any discussions that occurred.

The minutes should be factual and only provide information about what has happened at the meeting. Editorialising should be avoided.

If a matter is voted on at a meeting, the result of the vote should be included.

Any follow up actions arising from the meeting should be included along with who will carry out the action and the timeframe in which it will occur.

Residents should also be provided with information about how to provide feedback on the minutes if needed.

Drafting minutes of difficult meetings

Sometimes a meeting will become heated and the participants may resort to personal attacks, walk-outs or inappropriate remarks.

It may not be appropriate or necessary to record all of these instances and the chairperson may require remarks to be withdrawn (therefore the remarks are not recorded). In other cases, it may be sufficient to record that "a vigorous discussion ensued" rather than a blow-by-blow account within the minutes.

Including such detail within the minutes is not appropriate or helpful in the event of a disagreement.

It is inevitable that within a retirement village community there will be differing opinions and perspectives however a concerted effort should be made by all parties to ensure their behaviour remains professional.

It is often useful to consider the use of an active and passive voice when writing minutes. An active voice is where the subject of the sentence performs the action and can often be easily understood - such as, 'the residents of the village voted and the motion passed'.

A passive voice can sometimes be useful in circumstances to soften a description of an event – for example, 'many passionate opinions were raised by residents at the meeting'.

The disclosure of personal information

A residents' committee must also ensure that its minutes do not disclose personal information regarding residents (Regulation 12(4)(c)). This issue would generally arise if a resident has raised a personal concern with the residents' committee.

In addition to these requirements, when drafting minutes, committee members should be aware of the *Privacy Amendment (Enhancing Privacy Protection) Act 2012*.

This legislation contains 13 Australian Privacy Principles which impose specific obligations regarding the use of private information.

It is expected that at some time a residents' committee is privy to personal information in the course of its duties however, the minutes may refer to the matter in a general manner without the inclusion or disclosure of personal information.

Reminder

The disclosure of personal information is contrary to the Australian Privacy Principles regardless of the state of minds or intentions behind the distribution. For more information about these principles please visit the Office of the Australian Information Commissioner – Australian Privacy Principles.... <https://www.oaic.gov.au/privacy-law/privacy-act/australian-privacy-principles>

If you have any questions about the disclosure of personal information please contact The Office of the Australian Information Commissioner by telephone on 1300 363 992 or by email at enquiries@oaic.gov.au

Ensuring minutes are accessible

When considering where minutes are displayed, every village will vary due to facilities, accessibility issues and the size of the village. The following are some suggestions about where minutes may be stored in a village:

- > village community centre
- > village notice board
- > village library
- > the front desk
- > with the village manager
- > with a member of the residents' committee (for example the secretary or the chairperson).

Wherever a residents' committee decides to keep its minutes, the location must be clearly communicated with all residents.

A record of the minutes of a residents' committee meeting must be retained by the residents' committee for the retirement village for at least 7 years, and if there is no residents' committee for the retirement village, the operator must retain the records of the minutes (Regulation 12(5)).

It may not be appropriate that the minutes for the full 7 years are stored in one location and you may consider only displaying the most recent minutes and providing information about how residents may access past minutes.

Where appropriate (and no personal information is disclosed) any reports from sub-committees provided to residents' committees should also be available for inspection.

What if the minutes are challenged?

Where a resident does not feel that the minutes accurately reflect a meeting convened by the residents' committee, they should approach the residents' committee with their concerns.

The resident's concerns could be raised through a member of the residents' committee or at the next residents' committee meeting.

It is also important to remember that Regulation 12(4)(b)(ii) requires that a residents' committee must also provide a copy of the minutes from a residents' committee meeting to the operator of the retirement village.

What happens when a residents' committee disbands?

There may be a time when residents choose not to continue with a residents' committee within a village. A common cause of disbanding a committee is not enough interest from residents in joining the committee.

A residents' committee is able to disband at any point, however the Act does not describe a procedure to follow when this occurs. Actions taken may depend on the reasons for the committee disbanding e.g. a whole of village meeting results in a vote by residents to disband the committee or the committee does not reach the minimum required numbers to form.

Ways to inform residents there is no longer a residents' committee in the retirement village include holding a formal meeting or providing a notice to advise residents.

The residents' committee rules should address the procedure for disbanding a committee including what might happen to any funds held by the committee.

Should the residents' committee disband, previous residents' committee meeting minutes should be provided to the operator to assist in recording-keeping purposes.



Considerations for communicating with difficult people

On occasion, a committee may find it is having difficulty communicating with other parties including individual residents or the operator. Difficulties may also sometimes arise between committee members. Generally, most people act with positive intentions and acknowledging this prior to discussing difficult issues can help promote a more positive conversation.

In these types of circumstances, the following tips can be useful:

Be objective – Objective language while communicating with people is a valuable tool to get a message across. Replacing reactive and vague statements with clear and precise language can help get a message across quickly and reduce the incidence of disputes.

Use examples – Use examples when discussing an issue. Are there other ways to demonstrate a point?

Be accurate – Ensure that statements are factual, accurate and stay on topic. Be careful to not exaggerate as some people may consider the exaggeration to be fact.

Consider the form of your communication – Consider what is the best method of communication with this person/s. Would a letter, a phone call, a meeting or a quick catch up be more efficient? Could an email be confusing or misinterpreted in any way?

Learn to listen – Listening is a skill that has many benefits. It provides the listener with time to consider a point from another view and demonstrates respect for the other person's opinion.

Another technique that can be used to resolve a difficult discussion efficiently is to make a statement using the following formula:

- > here is the situation as I see it
- > here is how I feel about it
- > here is my acknowledgement of how you feel about it
- > here is what I think will work for all of us.

The above statements can be helpful in resolving a difficult discussion by acknowledging each other's feelings or thoughts and suggesting a reasonable compromise. This way, an assertive approach is taken without appearing aggressive to the other party.

Elements of an effective residents' committee

The following are some tips to help ensure that a residents' committee functions effectively.

1. Confidence in other committee members

Having the confidence in other committee members will enable the work to be shared equally between all. This leads to an informed and confident working group who can approach issues as a whole.

2. Understands its role and function of representing the interests of the residents of the village

The function of a residents' committee is to consult with the operator of the retirement village, or a representative of the operator, in relation to matters of interest to residents and to represent the interests of the residents (section 38).

In order to fulfil its functions, a residents' committee should be familiar with the matters on which an operator is required to consult with it under the legislation.

An efficient and effective committee is focused on the interests of all residents of the village and understands how to best promote these interests.

3. Willingness to delegate work to other members of the committee or ask for help where needed

Similar to having confidence in other committee members, delegating work to others allows all members to contribute. It is also good practice for a number of members to gain experience of various roles within the committee in case of another member's sudden illness or even an extended holiday.

4. Plan and run effective and efficient meetings

A well-run meeting reflects a committee that is clear in its goals and has balanced the skills, interests and experience of its members with the needs and requirements of the residents' committee.

5. Focused on maintaining a healthy working relationship with the operator, residents and other stakeholders

A concerted and constant effort should be made to maintain ongoing working relationships with other parties. A solid relationship will help matters run smoothly and assist in developing trust and respect between residents, the operator and other staff members.

6. Appreciate and celebrate others contributions and say thanks

Committee members are volunteers and their time, work and dedication is unpaid. It is important to recognise individuals or groups for their contributions towards helping others, no matter how small their contribution may be. This recognition assists in strengthening bonds within the village and encourages other residents to contribute towards a healthy, happy and respectful community.

Residents' associations

Some retirement villages have established a residents' association under the *Associations Incorporations Act 1985*. These associations have their own constitution and purpose.

A residents' association may exist in addition to a residents' committee established in accordance with section 38 of the *Retirement Villages Act 2016* however it cannot undertake the role of a village's residents' committee.

In a situation where no residents' committee has been established within a village, the operator must consult with the residents as a whole in relation to matters concerning the interests of the residents of the retirement village, irrespective of whether a residents' association is in existence or not.

- > A residents' association has no power to deal with the operator of the retirement village about the interests of the residents as a residents' committee would do, and the operator has no power to deal with the residents' association on those matters.
- > Where there is a residents' association in a retirement village, it is important that the group of persons elected to the residents' committee of the retirement village keep the exercise of the powers and functions of the residents' committee under the RV Act clearly separate from the activities of the residents' association.
- > If a resident of a retirement village resigns membership of a body corporate established under the *Associations Incorporation Act 1985* in relation to the retirement village, that person retains all rights under the RV Act, including rights of representation by the residents' committee under section 38.
- > It is possible that the same people may be elected to the residents' committee in a retirement village and also hold positions on the governing body (e.g. the board) of the residents' association.

Organisations to contact for advice

Independent information and advice

The Office for the Ageing

The Office for the Ageing is responsible for administering retirement village legislation and is able to provide general information and assistance on retirement village matters, clarify areas of concern and provide a mediation service to help resolve disputes between residents and operators.

Telephone (08) 8204 2420

Email RetirementVillages@sa.gov.au

Internet <http://www.sa.gov.au/seniors/retirementvillages>

Catalyst Foundation

Catalyst Foundation (formerly Seniors Information Service) is the leading provider of community information 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.

149 Currie Street, Adelaide SA 5000 | GPO Box 1645 Adelaide 5001

Telephone (08) 8168 8776

Freecall 1800 636 368 (SA country callers)

Email information@catalystfoundation.com.au

Internet www.catalystfoundation.com.au

Aged Care Alternatives

Aged Care Alternatives is a free information service that assists the older person, their carers and families to find and understand information about aged care services. Aged Care Alternatives can provide information through personal consultations or by telephone or email about My Aged Care - the Commonwealth Government entry point to aged care services. Aged Care Alternatives can support people through the registration process and initial screening interview.

1/445 Fullarton Road Highgate SA 5063

Telephone 8271 3888

Email info@agedcarealternatives.net.au

Internet www.agedcarealternatives.net.au

Consumer organisations

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)

16 Hutt Street Adelaide SA 5001

Telephone (08) 8232 0422 (COTA Switchboard)

Freecall 1800 182 324 (from outside Adelaide metropolitan area)

Web www.sarvra.asn.au

Email secretary@sarvra.asn.au

Aged Rights Advocacy Service (ARAS) – retirement village 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.

16 Hutt Street Adelaide SA 5001

Telephone (08) 8232 5377

Country Toll Free 1800 700 600

Email aras@agedrights.asn.au

Internet www.sa.agedrights.asn.au

Retirement village industry organisations

Aged and Community Services Australia

Aged & Community Services Australia (ACSA) is the leading peak body supporting over 700 church, charitable and community-based not-for-profit organisations that provide accommodation and care services to older Australians. ACSA is at the forefront representing, leading and supporting members to achieve excellence in providing quality affordable housing and community and residential care services for older Australians.

Telephone 1300 877 855

Email enquiries@acsa.asn.au

Property Council of Australia - SA Division

The Retirement Living Council (RLC) is a dedicated national division of the Property Council of Australia. The RLC seeks to play a critical role in the ongoing growth and sustainability of the retirement living industry. It is the only national organisation solely focused on advocating on the critical issues facing housing and services for older people, supporting and promoting members and the retirement living industry at large.

Level 5, 19 Grenfell Street, Adelaide SA 5000

Telephone (08) 8236 0900

Email sa@propertycouncil.com.au

Internet www.propertycouncil.com.au

Example residents' committee rules

IMPORTANT INFORMATION

The *Retirement Villages Act 2016* section 38 allows the residents of a retirement village to elect a residents' committee.

Residents' committees are free to set their own procedures, as long as they are not inconsistent with the law. The following rules are an example only of residents' committee rules to provide some direction about how these might be structured. They may be adopted by a residents' committee without change, or may be modified to suit an individual residents' committee's needs.

Part 1 – Preliminary

1. Definitions

In these rules:

Chairperson means the person holding office as Chairperson of the residents' committee.

Committee means the residents' committee.

Resident means a person as defined in section 4(1) of the Act.

Returning officer means a resident (who is not a member of the residents' committee and is not standing for election to the residents' committee) selected by a show of hands at a meeting of the residents.

Secretary means the person holding office as Secretary of the residents' committee or, if no person holds that office, the Chairperson of the residents' committee.

the Act means the *Retirement Villages Act 2016* (SA).

the Regulations means the *Retirement Villages Regulations 2017* (SA).

Treasurer means the person holding office as Treasurer of the residents' committee or, if no person holds that office, the Chairperson of the residents' committee.

2. Name

The name of the Committee is: 'The [insert name of village] Residents' Committee' hereafter referred to in these rules as 'the Committee'.

3. Function

Section 38(2) of the Act defines the function of the residents' committee as:

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

4. Objects

The objects of the Committee are:

- (1) to advance and protect the interests of all residents of the village;

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- (2) to discuss issues requiring the consent of residents under the Act and Regulations, or any other matter affecting the management and operation of the village;
 - (3) to call general meetings of all residents for the purpose of considering and voting on matters requiring the consent of residents;
 - (4) to conduct voting and report on the results in accordance with the Act and Regulations;
 - (5) to undertake functions bestowed on the Committee by the Act and Regulations and to provide any documentation held by the Committee to residents upon request;
 - (6) to facilitate communication between residents and the operator;
 - (7) to assist in dispute resolution by raising concerns or complaints with the operator; and
 - (8) to welcome new residents into the village.

Part 2 – Membership

5. Residents' Committee members

The Residents' Committee consists of the following office bearers:

- (1) Chairperson
- (2) Deputy Chairperson
- (3) Secretary
- (4) Treasurer
- (5) [insert number] ordinary Committee members.
and the following sub-committees [delete or add as appropriate]:
 - (a) Financial sub-committee – to consider proposed variations in recurrent charges, proposed annual budgets, examine quarterly accounts and other matters relating to financial management;
 - (b) Social sub-committee – to arrange social functions and outings for interested residents;
 - (c) Serviced apartments sub-committee – to consider issues specific to those residents living in serviced apartments within the village;
 - (d) Other (specify)

6. Functions of office bearers

- (1) The functions of the Chairperson are to:
 - (a) chair meetings of the Committee and meetings of residents;
 - (b) advise the operator of all decisions made by residents about matters requiring consent under the Act;
 - (c) rule on any procedural matters raised at meetings of the Committee or meetings of residents or queries as to the meaning of these rules;
 - (d) represent the Committee in meetings with the operator;
 - (e) seek clarification, where necessary, from the Office for the Ageing about the rights and obligations of residents under the Act and Regulations.

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- (2) The functions of the Secretary are to:
 - (a) keep a register of office bearers of the Committee;
 - (b) keep a written record of decisions made at meetings of the Committee or meetings of residents, in particular the votes on matters requiring the consent of residents under the Act;
 - (c) notify Committee members of the date, time and venue for meetings of the Committee and all residents of any general meeting of residents;
 - (d) keep the noticeboard in the village updated with relevant information;
 - (e) conduct and receive correspondence on behalf of the Committee and table copies at each meeting of the Committee;
 - (f) liaise with the operator regarding the provision of administrative assistance to the Committee;
 - (g) chair meetings of the Committee and meetings of residents required under the Act in the absence of the Chairperson;
 - (h) assist with welcoming new residents into the village; and
 - (i) update these rules when amended in accordance with rule 18.
 - (3) The functions of the Treasurer are to:
 - (a) make sure that money due to the Committee is collected and receipted and that payments authorised by the committee are made;
 - (b) make payments through a petty cash system or by cheque signed in conjunction with such other signatory or signatories as authorised by the Committee; and
 - (c) submit a report at each meeting of the Committee and meeting of residents that details all receipts and payments made since the previous report, accompanied by a list of unpaid accounts and monies outstanding up to and including the day of the meeting.

7. Qualifications for membership

Only a resident of the village is eligible to become a member of the Committee or a sub-committee or to nominate a resident for membership.

8. Term of membership

Each member of the Committee, or a sub-committee, is to be appointed for a period of 1 year.

A member of the Committee may be removed from office by a special resolution at a meeting of the residents.

9. Nominations for office bearers and ordinary Committee members

- (1) When a meeting of residents is held at which a Committee is elected, all positions on the Committee are to be declared vacant. The first business item at the meeting must be the election of the Committee for the coming year.
- (2) At the first meeting of the residents held to elect the Committee, an acting Chairperson is to be appointed with the consent of those residents present at the meeting for the purposes of running the meeting. For subsequent meetings held to elect the Committee, the Chairperson from the previous year is to act as chair of the meeting until the position of Chairperson has been filled.
- (3) Any resident present at the meeting can nominate themselves or another resident to be a Committee member.
- (4) An existing member or former member of the Committee may nominate again, or be re-nominated to be a member of the Committee.

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- (6) If only one nominee for an office bearer position is received, or if the number of nominations received for ordinary Committee members is equal to or less than the number of vacancies to be filled, the persons nominated are taken to be elected.
 - (7) If more than one nomination for an office bearer position is received, or if the number of nominations received for ordinary Committee members exceeds the number of vacancies to be filled, a written ballot is to be conducted to elect members and office bearers.

10. Election of office bearers and ordinary Committee members

- (1) The election of the committee must be held at the residents' committee's annual meeting.
- (2) A separate ballot is to be held for each office bearer followed by a ballot for ordinary Committee members.
- (3) Office bearers are to be elected in the following order:
 - (a) Chairperson
 - (b) Secretary
 - (c) Treasurer
 - (d) Any other office bearers.
- (4) If the previously elected Committee included a returning officer, then the returning officer is responsible for conducting the ballot and counting votes.
- (5) If the Committee does not include a returning officer, then a resident who is not standing for election to the Committee is to be selected by show of hands and is responsible for conducting the ballot and counting votes.
- (6) Voting papers must be prepared listing the name of each nominee in alphabetical order including the position for which they are nominated (i.e. office bearer position or ordinary Committee member), and must be given to each person at the meeting.
- (7) The voting paper must not identify the person who is voting.
- (8) Votes may be cast with a tick, or cross, or numbered, but each voting paper must not contain more votes than the number of positions being filled.
- (9) The Chairperson, or acting Chairperson, has the power to rule votes invalid if a vote cannot be reasonably determined.
- (10) The nominee receiving the greatest number of votes for each position is taken to be elected to that position.
- (11) If the votes for two nominees for one office bearer position are equal, either another ballot for that position must be held or the candidate can be chosen by a draw.
- (12) Voting papers are to be retained by the returning officer for 10 business days and may be inspected by any resident.

11. Announcement of election results

- (1) The names of successful candidates must be announced at the meeting at which the election is held. There is no need for the number of votes received by each nominee to be announced.
- (2) The names of the residents elected should be advised to the operator and placed on the noticeboard at the village within 7 days of the election.

12. Vacancies

- (1) A vacancy is created when:
 - (a) a member of the Committee ceases to be a resident during their term of appointment; or
 - (b) a member of the Committee resigns by notice in writing to the Secretary; or
 - (c) all positions are declared vacant in accordance with rule 9(1).
- (2) Vacancies relating to office-bearers are to be filled by way of an election among the other members of the Committee. The Committee may determine whether or not vacancies of ordinary Committee members need to be filled.

Part 3 – Sub-committees

13. Formation of sub-committees

- (1) The Residents' Committee may decide to appoint a sub-committee at its own discretion during the year if the need arises.
- (2) At least one Committee member must be on a sub-committee and the Committee may determine which Committee members will be on a sub-committee.
- (3) The Committee may appoint one or more residents who are not a Committee member to assist a sub-committee.

14. Operation of sub-committees

- (1) The Committee will determine how often a sub-committee will meet.
- (2) A sub-committee may select their own leadership.
- (3) If requested by the Committee, a sub-committee must provide a report on its activities to the Committee in accordance with Regulation 12(6).

All sub-committees must be responsible and accountable to the Committee and must not incur debts, enter contracts or deal with the operator directly without the prior approval of the Committee.

Part 4 – Conduct of meetings

15. Committee meetings

- (1) The Committee is to meet [insert number] times in each period of 12 months at a place and time the Committee determines.
- (2) The Chairperson may convene additional meetings of the Committee.
- (3) The Chairperson presides at all meetings of the Committee at which the Chairperson is present. If the Chairperson is absent from any meeting, the members of the Committee present at that meeting must appoint a member to preside at that meeting during the absence of the Chairperson.
- (4) Committee members are to submit written requests to the Secretary for items to be placed on the agenda.
- (5) The Secretary must give oral or written notice of a meeting to each member of the Committee at least 72 hours before the meeting. The notice is to include an agenda for the meeting.

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- (6) Matters for which notice has been given are to be discussed at the meeting and other matters may be raised as general business.
 - (7) The minimum number of Committee members required to be present to constitute a quorum is 50%+1.
 - (8) Decision making is by a majority vote.
 - (9) Each member present at the meeting is entitled to one vote. If two or more members reside in the same residence only one of them may exercise a vote.
 - (10) In the event that a vote on an issue is equal the Chairperson of the meeting is entitled to exercise a second or casting vote.
 - (11) The Committee will keep accurate minutes of the committee meetings.
 - (12) Within 10 business days of the committee meeting the committee will;
 - (a) make minutes of the meetings available for inspection in a manner that is easily accessible by residents
 - (b) provide a copy of the minutes to the operator of the retirement village.
 - (13) The minutes of Committee meetings will not disclose personal information regarding residents.
 - (14) The Committee will keep a record of the minutes from the Committee meetings for the previous 7 years (at least).
 - (15) If the Committee disbands, the records of the minutes from the Committee meetings will be delivered to the operator for safekeeping.

16. Meetings of residents

- (1) The Committee is to call an annual meeting in accordance with section 33(5) of the Act to which all residents of the village will be invited at least once each year.
- (2) Other general meetings of residents may be called during the year if issues arise that require the consent of residents under the Act or for any other matter.
- (3) Residents are to submit written requests to the Secretary for items to be placed on the agenda.
- (4) Written notice of a meeting of residents must be given to each resident at least 10 business days before the meeting. The notice is to include:
 - (a) the time and place of the meeting
 - (b) the business to be transacted at the meeting.
- (5) A notice for the annual meeting will also be accompanied by a statement of accounts showing the committee's income and expenditure in respect of the previous financial year which must be signed by a person who:
 - (a) was not a person who was a member of the residents' committee in the financial year to which the accounts relate, and;
 - (b) who has verified the accuracy of the accounts.
- (7) Matters for which notice has been given are to be discussed at the meeting and other matters may also be raised as general business.
- (8) No resident is obliged to attend or vote at a meeting of residents.

(10) The Committee will produce accurate minutes of the meeting and make them available in a location easily accessible to residents within 10 business days of the meeting.

Notes to section 16:

For matters requiring residents' consent, voting must be held in accordance with the *Retirement Villages Act 2016* and *Retirement Villages Regulations 2017*.

Appendix A summarises the voting procedures set out in the Act and Regulations.

Part 5 – General

17. Use of funds

- (1) The Committee's income and assets may only be used in accordance with the objects set out in rule 4.
- (2) The Committee may, on behalf of the residents, arrange activities of a fund-raising nature.
- (3) The Committee shall not spend money in excess of \$.....on any item before seeking approval of residents at a general meeting.
- (4) All monies of the Committee shall be paid into the account of the Committee and will be reported on in accordance with the Act.
- (5) All monies of the Committee must be used for the promotion of the objectives of the Committee.
- (6) Members of the Committee are appointed in a voluntary capacity. No payment, goods or benefit is to be made to members of the Committee other than to reimburse them for expenses incurred with the approval of the Committee.

18. Confidentiality

- (1) The Committee shall not divulge any information provided to it by residents unless it has the consent of the residents concerned.
- (2) The Committee may seek advice from a Government agency or another body or person, on behalf of residents, provided that no action is taken or costs incurred without the residents' consent.

19. Changes to these rules

- (1) A residents' committee must undertake reasonable consultation with residents before determining or amending its procedures.
- (2) These rules may only be altered, rescinded or added to at a general meeting of residents with majority consent.
- (3) These rules are subject to the provisions of the *Retirement Villages Act 2016* and *Retirement Villages Regulations 2017*. If a rule conflicts with the Act or Regulations the provision of the Act or Regulations prevails.

These rules were adopted/last amended on [insert date]

Appendix A

Voting requirements for residents' consent

Majority consent

Regulation 12 of the *Retirement Villages Regulations 2017* sets out how voting will occur when considering a proposed measure or action at a meeting of all residents called by the residents' committee:

- (1) A decision at a meeting is to be determined by a simple majority of the votes cast by the residents voting at the meeting (in person or by absentee vote).
- (2) Only one vote per residence, in accordance with Regulation 12(3)(a) & Regulation 12(3)(c)
- (3) Subject to Regulation 12(3)(b) —
 - (b) a resident may exercise an absentee vote on a question arising for decision at the meeting by giving the operator written notice of the proposed vote at least 24 hours before the time of the meeting.
- (4) A vote may be taken by means of:
 - (a) a show of hands; or
 - (b) a written ballot.

Special resolution

Part 1 of the *Retirement Villages Act 2016* section 4(1) sets out the requirements for a special resolution:

A special resolution means a resolution passed at a meeting of residents of a retirement village in the following circumstances:

- (1) *At least 15 business days written notice of the meeting, containing a statement of the proposed special resolution, must have been given to all residents;*
- (2) *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 (either in person or by way of an absentee vote exercised in accordance with this Act);*

For more information

Office for the Ageing
Department for Health and Ageing
PO Box 196 Rundle Mall
Adelaide 5000
Telephone: (08) 8204 2420
Email: retirementvillages@sa.gov.au
www.sa.gov.au/seniors/retirementvillages

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