

SA retirement village information for residents and prospective residents

Living in a retirement village - residents' committees

Section 38 of the *Retirement Villages Act 2016* (the Act) refers to residents' committees. The function of a residents' committee is to consult with the operator of the retirement village in relation to matters of interest to residents and to represent the interests of residents.

The basic structure and functions of a residents' committee are:

- only one residents' committee may be established in a retirement village
- only a resident of the village may belong to a residents' committee
- members are elected by the other residents and hold office for a term of one year but can stand for re-election
- if the need arises, a member can be removed from office by a special resolution of residents
- a residents' committee must provide the operator with information about the membership of the committee including contact information
- a residents' committee can determine its own procedures and appoint sub-committees
- a residents' committee must undertake reasonable consultation with residents before determining or amending its procedures
- it is an offence for an operator to deliberately discourage or prevent residents from forming a residents' committee or to obstruct a committee in the performance of its functions
- the operator does not need to be involved in the conduct of the residents' committee but can meet with the committee
- the operator must ensure reasonable consultation with the residents' committee on significant village issues
- both the operator and the residents' committee must, on reasonable written request, meet with the other party.

A residents' committee is required to convene a meeting of all residents annually. A statement of accounts showing the committee's income and expenditure for the previous financial year must be provided along with the notice of the meeting. A residents' committee must make accurate minutes of this annual meeting available for inspection by residents within ten business days of the meeting.

A residents' committee is also required to make minutes of its residents' committee meetings available for residents to inspect and must provide a copy of the minutes to the operator. Minutes of a residents' committee's meetings must be retained for at least seven years.



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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*.

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 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.

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. The Office for the Ageing recommends that you seek your own legal advice should you require interpretation of the legislation.

For more information

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