



# Dispute resolution guidelines for retirement village managers

***This information is provided as a guide for retirement village managers. The dispute resolution process is outlined in Division 6 of the Fair Trading (Retirement Villages Interim Code) Regulations (the Code) (note: interim codes are replaced every six months).***

In any communal living situation with shared amenities, disputes between residents, or between residents and the administering body, may occur. Open and respectful communication is the best way to prevent or resolve disputes. The Code places strong emphasis on providing easy access to an informal and inexpensive process to resolve disputes.

Should the Code's dispute resolution process fail to resolve the matter, either party can seek the assistance of the Commissioner for Consumer Protection (The Commissioner). The Commissioner can refer the matter for conciliation or investigation. The majority of disputes referred to the Commissioner are resolved at the conciliation and investigation stage.

The Commissioner has the power under the legislation to provide information and mediation services to either party to assist to resolve the dispute or to refer the matter to an independent external mediator.

## **Resident conflict and informal dispute resolution**

Residents experiencing conflict should be encouraged to make every attempt to resolve issues between themselves. Many disputes or conflicts are due to simple misunderstandings or a lack of suitable information.

Effective communication, negotiation and compromise are preferable to using more confrontational processes. It may be useful for the residents to discuss the issue with a friend or an advocate before using the dispute process available under the Code. An advocate may be a member of the residents' committee or a member of the Western Australian Retirement Villages Residents Association (WARVRA).

If residents are unable to resolve a dispute informally, the formal dispute resolution process can be used to ensure the dispute is dealt with quickly and fairly. Whichever approach is taken it is essential problems are dealt with quickly to ensure they do not escalate, involve more residents and become difficult to resolve.

In dealing with a dispute between residents village managers should attempt to:

- establish a framework for dealing with the complaint and obtain the agreement of both parties to that process;
- conduct any discussions in a neutral location acceptable to both parties;
- remain impartial and fair to both parties;
- appoint an independent person to deal with the complaint if necessary;
- clearly identify the substance of the complaint by carefully listening to and questioning both parties;
- summarise the key points to ensure you have correctly understood the issues;
- seek input from other parties or witnesses to confirm the facts if necessary;
- have the complainant clearly identify what outcome they are seeking from this process;
- suggest alternatives that may be acceptable to both parties;
- encourage compromise;
- ensure you maintain control of the process – if the discussion becomes too heated to be productive, suggest suspending the process and re-convening at a later time or date; and
- document the process and any agreed outcomes.

## Dispute with the administering body

It is important to remember residents are paying substantial fees to live in the village and they have a right to be consulted, kept informed and have their concerns about the village dealt with respectfully. Many issues can be avoided or resolved by simply providing adequate information.

The resident's complaint may concern the way the village is being run, including concerns about the financial management of the village, or the provision of facilities or services. It is important residents feel comfortable enough to raise concerns with the administering body without fear of intimidation or retribution. The best way to achieve this is to maintain an open, consultative approach to residents, being prepared to listen to their concerns and willing to negotiate an appropriate outcome. The residents' committee may also be a valuable means of resolving residents' concerns in an informal way.

Where this type of informal approach has failed, or in situations where the resident does not feel comfortable raising the issue informally, the formal dispute resolution process may be appropriate.

Formal dispute resolution process Each village should develop, document and publish their dispute resolution process and make it readily available to all residents. Any such process must incorporate the following procedures as outlined in the Code:

- 1) The resident making the complaint must:
  - a. give written notice of the issue/s to all other people involved in the dispute and call on them to rectify or otherwise attempt to settle those matters (notice of dispute); and
  - b. notify the administering body the dispute has arisen.
- 2) It is recommended the administering body provide written receipt of the notice and the issues to be resolved, and clarify the outcome or remedies being sought as part of the required dispute documentation process.
- 3) After receiving the notice of dispute:
  - a. the second party/ies must acknowledge receipt of the notice in writing within 10 working days – this acknowledgement must give written reasons if any of the complaint matters are rejected; and
  - b. the administering body must nominate a suitable person or body to assist with the resolution of the dispute. The person should be a neutral party and should not have been involved in any of the disputed matters. It is recommended that the administering body confirm their nominee is acceptable to all parties.
- 4) Prior to the disputes meeting, parties to the dispute must exchange all documents and information relevant to the dispute.
- 5) The appointed person should then convene a meeting of all parties to attempt to resolve the matters in dispute. This should occur no later than 20 working days after the issue of the notice of dispute, unless a later date is agreed by the parties. The venue for the meeting can be the retirement village or any other place as mutually agreed.
- 6) Parties to the dispute can be supported by another person if each party to the dispute is notified of that person's name.
- 7) Nothing said, done or produced during the dispute process is to be used for any other purpose or disclosed or communicated to another person, without the explicit agreement of the parties.
- 8) Any matters that remain unresolved may be referred to the Commissioner for mediation as per clause 31 of the Code or in certain circumstances, the State Administrative Tribunal.

The dispute resolution process set out in Division 6 of the Code can be varied if the administering body agrees to the changes and they are passed by a special resolution at a meeting of the residents.

### Consumer Protection | Department of Mines, Industry Regulation and Safety

**1300 304 054**

8.30 am – 5.00 pm Mon, Tue, Wed and Fri  
 9.00 am – 5.00 pm Thurs  
 Gordon Stephenson House  
 Level 2, 140 William Street  
 Western Australia 6000  
 M: **Locked Bag 100, East Perth WA 6892**  
 W: [www.scamnet.wa.gov.au](http://www.scamnet.wa.gov.au)  
 E: [consumer@dmirs.wa.gov.au](mailto:consumer@dmirs.wa.gov.au)

#### Regional Offices

Goldfields/Esperance	(08) 9021 9494
Great Southern	(08) 9842 8366
Kimberley	(08) 9191 8400
Mid-West	(08) 9920 9800
North-West	(08) 9185 0900
South-West	(08) 9722 2888

National Relay Service: 13 36 77

Translating and Interpreting Service (TIS): 13 14 50

This publication is available in other formats on request to assist people with special needs.

