



Dispute resolution guidelines for retirement village residents



This information is provided as a guide for retirement village residents. The dispute resolution process is outlined in Division 6 of the Fair Trading (Retirement Villages Code) Regulations 2015 (the Code).

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. All residents of a retirement village want to enjoy their retirement years and willingness to communicate and compromise is essential to harmonious communal living.

If required the Code provides easy access to an informal and inexpensive dispute resolution process.

If the Code's dispute resolution process fails to resolve the matter, either party can seek the assistance of the Commissioner for Consumer Protection (The Commissioner). The Commissioner has the power to refer the matter for conciliation or investigation. Participation in conciliation is entirely voluntary and the outcome is dependent on the good will of all concerned.

The majority of disputes referred to the Commissioner are resolved at the conciliation and investigation stage.

If, in the rare instance, conciliation and investigation are unable to resolve the matter, the Commissioner has the power to provide information and mediation services to the relevant parties as an aid to resolving the dispute. The Commissioner is also able to refer the matter to an independent external mediator.

Resident conflict and informal dispute resolution

Many disputes are caused by simple misunderstandings.

Should you and your fellow resident/s experience conflict then open and clear communication, negotiation and compromise are some of the tools you can use in the first instance when resolving the issue/s between yourselves. Resolving conflict through open communication between you and your neighbour is an excellent way to ensure a positive ongoing relationship and is the most practical way to resolve the issue.

Before using the dispute resolution processes under the Code you may find it useful to discuss the issue with a friend or advocate for example, a member of the residents' committee or a member of WARVRA (Western Australian Retirement Village Residents Association).

Throughout the dispute resolution process, it is important to bear in mind that the best outcome will be one that is acceptable to all parties and where positive relationships between residents of the village are maintained.

If open and clear communication, negotiation and compromise are unable to resolve the matter, the Code's formal dispute resolution process can be used to ensure that the dispute is dealt with promptly and fairly. Disputes that linger have a tendency to grow and spread to the rest of the village.

When dealing with a dispute with your fellow resident consider the following:

- The other resident may be unaware there is a problem and their actions are adversely affecting you.
- State your concerns from your point of view and explain how you feel.
- Refrain from personal comments about your fellow resident.
- Give your fellow resident an opportunity to respond and really listen to what they have to say.
- Refer to the residence rules and contracts, if these are being breached.
- Keep a record of all exchanges including dates, times and discussions relevant to the dispute.
- Remember to focus on the problem not the person.
- If the informal approach is getting off track, seek the assistance of the village manager to establish a framework for dealing with the issue.
- Ask for an independent person to mediate the dispute if you think this will help.
- Remain calm and respectful in all your dealings. If it is hard to stay calm ask for a break or for the parties to reconvene at a convenient time.
- Be clear about what outcome you are seeking from this process but be open to alternatives that may be acceptable to both parties – there may be solutions that have not occurred to either resident.
- Keep notes on the discussion and any agreed outcomes.

Dispute with the administering body

Your complaint may relate to concerns you have about how the village is being run, including the financial management of the village or the provision of facilities or services. Your administering body should welcome and encourage residents to bring their concerns and complaints to its attention. If, however, your administering body does not promote a welcoming environment in which residents may safely make their voices heard, the residents' committee may be willing to speak on your behalf.

While it is the responsibility of the administering body to manage the village, you have the right to be consulted and kept informed of issues related to the running of the village. You also have the right to have your concerns about the running of the village heard and properly considered. An open exchange of information between residents and the administering body serves to avoid or resolve issues. When the administering body readily explains why a decision has been made it may make the resident/s aware of aspects of management of which they were previously unaware.

Focus on specific issues you think are critical to the efficient running of your village. Positive outcomes are easier to achieve when issues are broken down into small components and dealt with one at a time. After you successfully resolve your first issue, you may find the remaining issues either fall away or are easier to resolve.

While the informal approach is the preferable way to solve disputes there will be occasions when communication breaks down or the matter is sufficiently serious to warrant a more formal solution. A more formal dispute resolution process is outlined in the Code.

Formal dispute resolution process

Each village should have a documented dispute resolution process which is readily available to all residents. Any such process must incorporate the following procedures as outlined in the Code.

- 1) If you wish to make a complaint you 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) The administering body should confirm in writing, receipt of the notice and the issues to be resolved and clarify the outcome or remedies you are seeking.
- 3) After receiving the Notice of Dispute;
 - a. the second party/ies must acknowledge receipt of the notice in writing within 10 working days — the 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 who is to deal with the dispute. The person or body should be a neutral party and should not have been involved in any of the disputed matters. The administering body should confirm their nominee is acceptable to all parties.
- 4) Prior to the dispute 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) The administering body must document the dispute process.
- 9) 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.