

# Retirement villages

Internal dispute resolution  
guidelines for retirement  
village owners and managers



#### Disclaimer

Because this publication avoids the use of legal language, information about the law may have been expressed in general statements. This guide should not be relied upon as a substitute for the *Retirement Villages Act 1986* or professional legal advice.

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This document is available for download in accessible PDF and Microsoft Word formats at [consumer.vic.gov.au](https://consumer.vic.gov.au). If you would like to receive this publication in an alternative accessible format, please phone 1300 55 81 81.

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## About this publication



**By law, all Victorian retirement villages must have an internal dispute resolution scheme. This is a general guide to managing your village's scheme.**

The *Retirement Villages Act 1986* and the Retirement Villages (Records and Notices) Regulations 2005 set out detailed procedures for the formal handling of management complaints and resident disputes.

This guide summarises what you, as the manager, are legally required to do (you can be penalised for not complying with the law). It also outlines actions that may not be required by law, but which we recommend as good practice.

Consumer Affairs Victoria also publishes 'Retirement villages: good practice to address key issues'.

Information to help prospective and current retirement village residents understand what is involved in retirement village living is also available.

Printed guides are available from Consumer Affairs Victoria, and information is also available on our website at [consumer.vic.gov.au/retirementvillageoperators](https://consumer.vic.gov.au/retirementvillageoperators).

If your village has an owners corporation, the *Owners Corporations Act 2006* sets out a separate three-step process to deal with grievances with lot owners. Consumer Affairs Victoria can provide more information on this process.

For contact details, see '[Consumer Affairs Victoria](#)' on page 14..

## General tips for handling complaints

**Good communication between village managers and residents is critical in reducing and resolving disputes.**

If a complaint is made, try to resolve it quickly – the longer it goes on, the more likely it will escalate and become more difficult to resolve. Good practice for handling complaints includes:

- not becoming personally involved
- listening carefully to the complaint and summarising it to confirm it has been understood
- identifying and speaking to independent witnesses (where necessary)
- taking action according to statutory procedures
- rescheduling the meeting with the resident(s) to the next day if they are too angry or distressed to work through the issues in a calm manner.

### Handling complaints between residents

Communication between residents should be encouraged. Advise residents to discuss complaints – simply talking about the issue may lead to a solution.

If you, as manager, become involved in a dispute between residents, follow the points set out above, but also:

- be fair to both parties – don't take sides
- come up with several options and let the residents decide on a solution
- advise the parties that they may contact the Dispute Settlement Centre of Victoria (DSCV) for advice on dispute resolution assistance.

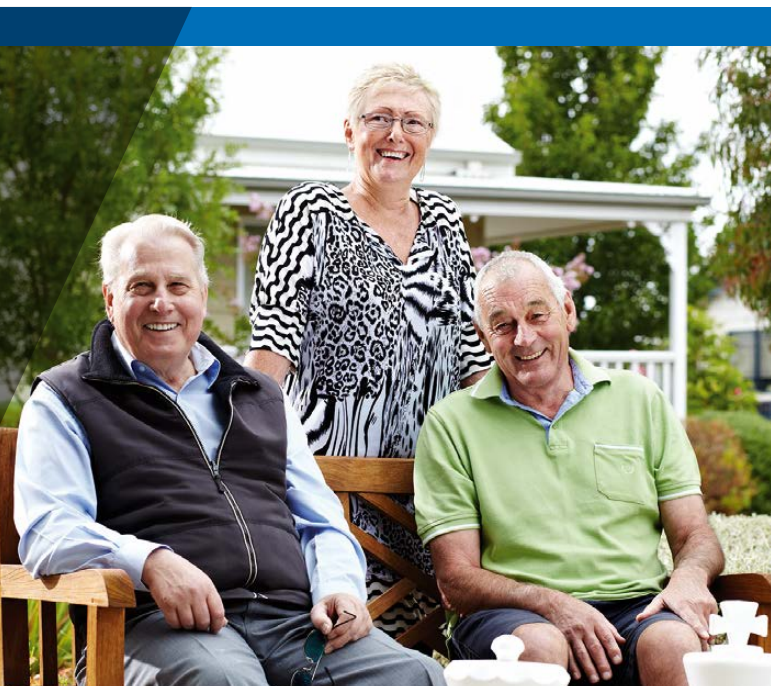
## Why an internal dispute resolution scheme?

By law, all Victorian retirement villages must have an internal dispute resolution scheme.

Such a scheme benefits both residents and managers, as it:

- provides a clear, dedicated avenue for residents to pursue any issues they may have with management
- means disputes can be dealt with efficiently and effectively within the village, often without involving an external dispute resolution body
- is accessible to all parties
- means minor problems can be addressed early, which helps prevent major disputes
- helps managers improve communication and build strong relationships with their residents, which helps prevent future disputes
- promotes a harmonious living environment, where residents' concerns are taken seriously, and are addressed appropriately and impartially.

## What does the scheme cover?



A complaint is the reporting by a resident of an issue, problem or grievance that is affecting their quality of life at the village. It may relate to behaviour (an action or a failure to act) and/or the physical environment.

The dispute resolution scheme applies to:

**Disputes between residents**, including complaints about another resident's (or residents') action or inaction that affects the:

- resident's use and enjoyment of the village
- use of village services.

**Management complaints**, including about the manager's:

- control or operation of the village
- action or inaction that affects residents' use or enjoyment of the village
- provision or non-provision of services.

Essentially, a management complaint is an allegation that a manager has failed, or is failing, to meet an obligation. These obligations do not have to be contained in the resident's contract, although many management complaints will involve contractual issues.

**Note:** Managers should not use the internal dispute resolution process to resolve disputes that involve violence. Either the manager or resident should report these matters to the police.

## Do residents have to use the scheme?

In the first instance, residents should be advised to try to resolve any complaints they have about management or other residents using the village's internal dispute resolution scheme.

If this is unsuccessful, for complaints about management residents may contact:

- Consumer Affairs Victoria for information and advice
- DSCV for assistance with dispute resolution (noting that parties in a dispute cannot be compelled to participate in dispute resolution through DSCV).

Residents may also choose to lodge an application at the Victorian Civil and Administrative Tribunal (VCAT). Although VCAT may offer alternative dispute resolution services within a proceeding, residents who lodge an application with the tribunal in these circumstances will generally be seeking a binding order.

For complaints about another resident, they may seek advice from the residents' committee or DSCV.

# What are the manager's obligations?

Retirement village managers must provide an internal dispute resolution scheme that meets certain legal requirements.

## The manager is legally required to:

- put in writing the procedures for handling management complaints and mediating disputes between residents (this is referred to in this guide as the 'internal dispute resolution document')
- inform residents of the dispute resolution procedure and make copies of the internal dispute resolution document readily available to current and prospective residents and their families – Consumer Affairs Victoria recommends putting these procedure documents somewhere easily visible to residents, so they can take a copy without having to ask
- for any complaint not resolved within 72 hours, not counting weekends and public holidays, establish a separate written record and keep it up-to-date (see ['Recording information about a complaint or dispute'](#) on page 11)
- present a de-identified report on complaints, including the outcome and action taken (if any) to the annual meeting of residents (see ['Annual reporting responsibilities'](#) on page 12).



## The manager must not:

- require residents to make complaints in writing
- take action to resolve a dispute without the consent of both parties, in disputes between residents; or the consent of the complainant, if the complaint is against management
- deter a resident from complaining
- cause detriment to a resident because the resident complains
- prevent a resident who makes a complaint from being represented throughout the resolution process
- use a process which is inconsistent with or overrides existing law (or example, the *Privacy and Data Protection Act 2014*) or the terms of the resident's contract
- identify parties to a dispute in the report to the annual meeting of residents
- deal with a complaint between residents if it is already being dealt with by the residents' committee.

# What does the internal dispute resolution document include?



The mandatory internal dispute resolution document sets out your village's procedures for handling management complaints and mediating disputes between residents.

Use plain, non-technical language and, if appropriate, make the document available in alternative formats for people with different needs – for example, an audio version or language translations.

## What the document must cover

### How residents can complain

This includes:

- where and when residents can make complaints. The times and places must not be unreasonably restrictive
- the name of the person/s who can take complaints.

You must not require residents to put complaints in writing. However, you may describe how a resident can lodge a written complaint if they prefer.

### How the complaint will be handled

This must set out the process for handling complaints about management, and the process for mediating disputes between residents.

We recommend including at least:

- how the complaint will be acknowledged
- how the resident/s concerned, or their representatives, will be kept informed of progress and advised about outcomes
- the manager's procedures for complying with the statutory obligations to record and report on complaints and disputes
- standard steps the manager will take in attempting to resolve complaints and disputes and, where possible, the expected timeframes.

For example, first steps in dealing with a resident dispute would be to:

- confirm in writing with the complainant the issues to be resolved and outcomes sought
- put this written summary to the resident who was the subject of the complaint, inviting them to respond to the manager within a specified timeframe, that is reasonable given the circumstances, and in a way that confirms the issues and desired outcome. Managers will need to allow time after this occurs, to make enquiries that establish the facts and options for addressing the resident's concerns.



# Keeping residents informed about the scheme

## Other options for dispute resolution

The document must inform residents that they may seek information and advice from Consumer Affairs Victoria, and include details on how they can contact us. Consumer Affairs Victoria can provide advice but not directly conciliate disputes between residents.

The resident may also choose to have a dispute with another resident handled by the residents' committee, however the law does not require this option to be included in the internal dispute resolution document.

## Other things to cover

We recommend the document also include details of what information must be recorded, by law, about a dispute or complaint (see ['Recording information about a complaint or dispute'](#) on page 11).

It is good practice to remind residents regularly of the dispute resolution scheme in a variety of ways – for example:

- by having copies of the internal dispute resolution document in a visible location with easy access, so residents and their families can take a copy without having to ask
- through newsletters or other information provided regularly to residents
- through posters and leaflets in common or high-use areas
- by providing a reminder during resident meetings
- by including information in pre-contract and contract information for new residents
- in mail-outs to residents' families.

Publicise any change in the dispute resolution procedures and make sure you update your internal dispute resolution document.

# What is the dispute resolution process?



As the manager, you are responsible for the process of resolving a dispute. How you go about this will depend on the nature of the dispute and the parties involved.

On this page is a sample dispute resolution process.

Some of these steps are mandatory, mainly around the reporting and recording of information. As a manager, make sure you understand your legal obligations for creating and maintaining written records of a management complaint or resident dispute (see ['Recording information about a complaint or dispute'](#) on page 11).

**There are penalties for not complying.**

## Sample process

**Stage 1:** Complaint received.

**Stage 2:** Acknowledge receipt of the complaint and make a record of it (a record is mandatory if the complaint is not resolved within 72 hours – see ['Recording information about a complaint or dispute'](#) on page 11).

**Stage 3:** Is the dispute resolved within 72 hours? If **yes**, inform the complainant of the outcome and make a record of the complaint and resolution. If **no**, go to stage 4.

**Stage 4:** Plan dispute resolution approach and inform parties including details of the time frame. Make a record of this action (mandatory) as soon as practicable and place a copy on the complaint file.

**Stage 5:** Carry out actions against the plan and continue communicating with the parties. Make a record of each action (mandatory) as soon as practicable and place a copy on the complaint file.

**Stage 6:** Is the dispute resolved? If **yes**, inform parties and make a record of the outcome (mandatory) as soon as practicable and place a copy on the complaint file. If **no**, inform the complainant that they may seek information and advice from Consumer Affairs Victoria (mandatory).

It is important to record each action and event as it happens.

# Recording information about a complaint or dispute

The law has certain requirements around the recording of information on management complaints or resident disputes.

## Penalties apply for non-compliance.

### Resolved within 72 hours

Inform the complainant of the outcome and make a note of the complaint or dispute and the resolution.

### Not resolved within 72 hours

The law prescribes how written records are to be created and maintained for complaints or disputes unable to be resolved within 72 hours (not counting weekends and public holidays).

By law, the manager must:

- establish a separate (paper or electronic) file for each complaint or dispute, which must be retained for seven years
- immediately record in the file:
  - the date of opening the file
  - the name and address of the resident raising the complaint or dispute
  - contact details for the resident or their representative
  - whether the matter was raised orally or in writing
  - whether it was a complaint about management or a resident dispute
  - detailed particulars of the complaint or dispute
- immediately place in the file copies of any correspondence or other documentation that the resident gives to the manager.

As soon as practicable, the manager must place in the file:

- a dated copy of written advice to the resident, summarising the manager's understanding of the matter to be resolved
- the steps the manager intends to take
- the date by which the manager will advise the resident further.

You must also place in the file, as soon as practicable after the event, a detailed description or copy of any further communication with the resident about:

- the manager's understanding of any relevant issues to be resolved
- steps the manager intends to take or has taken, or the date by which the manager will advise the resident further.

The manager must also place in the file, as soon as practicable after the event:

- notes of every action taken by the manager to resolve the complaint or dispute
- copies of all correspondence or other documentation received or sent by the manager about the complaint or dispute
- a copy of written notice to the resident that the manager considers:
  - the dispute or complaint as resolved and setting out the details of its resolution, or
  - that the complaint or dispute cannot be resolved, setting out the reasons why it cannot be resolved and advising that they may contact Consumer Affairs Victoria for information and advice or seek independent legal advice.

Though it is not a legal requirement, making a record of a complaint or dispute may include collecting relevant documentation and evidence – for example, photographs if the dispute involves the condition of the grounds, or advertising material if the dispute is about a resident's expectations of facilities upon entering the village.

Consumer Affairs Victoria recommends you allow the residents named in the complaint or dispute, or their representatives, to inspect the file upon request unless there are special circumstances that make this unreasonable.

## Annual reporting responsibilities

## Reporting confidentially



The retirement village manager must present a report at the annual meeting of residents. Without identifying the parties, this report must detail for the past year:

- the number and nature of management complaints and residents' disputes
- the outcome of each complaint or dispute, including any action taken to resolve them
- any changes, made or proposed, to address issues arising from a complaint or dispute.

The best way to maintain confidentiality in the reporting process is to collate the specific information about individual complaints and disputes into a range of broad categories – for example, collating by:

- number of complaints and disputes received
- timeframes for resolution
- nature of the complaints, such as:
  - condition of village grounds
  - maintenance issues
  - contractual issues
  - noise
  - quality of service
  - disputes between residents
- action taken, for example:
  - information provided
  - apology
  - public meeting
  - conciliation/mediation/facilitation session
  - resident interviews or meetings
  - consultation with residents' committee
  - independent/expert advice or report obtained
  - corrective action (for example, maintenance work or repairs)
- outcome, for example:
  - resolved to satisfaction of both parties (for disputes between residents)
  - resolved to the satisfaction of the complainant (for management complaints)
  - resident advised to seek external assistance
  - referred for external dispute resolution
  - as a result of the complaint, a village policy or process was changed
  - complaint withdrawn
  - unsuitable for dispute resolution – referred to relevant authority (for example, the police or a local council).

# Unresolved complaints and disputes

An unresolved complaint or dispute can be referred to an external agency for resolution.

For information and advice on your options, contact Consumer Affairs Victoria.

For assistance with resolving a dispute, contact the Dispute Settlement Centre of Victoria (DSCV).

## Note:

Retirement village contracts must not include terms that allow management complaints or resident disputes to be dealt with by arbitration. Arbitration is the process that enables a private third party to make a legally binding decision about how the complaint or dispute is resolved. If a contract contains such a term, it is void (treated as if it never existed).

## Dispute resolution by the Dispute Settlement Centre of Victoria (DSCV)

DSCV's dispute resolution process involves assisting the parties to resolve the dispute by:

- facilitating the exchange of information
- identifying and clarifying the issues in dispute
- assisting the parties to identify and explore options for resolution, and
- facilitating discussions to resolve the dispute.

For more information, visit the DSCV website ([disputes.vic.gov.au](https://disputes.vic.gov.au))

If the parties cannot agree, they can take the matter to the Victorian Civil and Administrative Tribunal (VCAT) for a decision that is binding on both parties.



## More information

- *Retirement Villages Act 1986*
- Retirement Villages (Records and Notices) Regulations 2005
- Victorian Civil and Administrative Tribunal website ([vcat.vic.gov.au](https://vcat.vic.gov.au))

# Useful contacts

## Consumer Affairs Victoria

[consumer.vic.gov.au](http://consumer.vic.gov.au)

**Phone** 1300 55 81 81

### Regional services

Services from Consumer Affairs Victoria are also available at Justice Service Centres in Ballarat, Bendigo, Box Hill, Broadmeadows, Dandenong, Geelong, Mildura, Morwell, Wangaratta and Warrnambool. Our mobile service regularly visits rural communities. For details on the office or mobile service nearest you, ring 1300 55 81 81 or visit the Consumer Affairs Victoria website and follow the Contact Us link.

## Housing for the Aged Action Group

This independent, government-funded group provides information on housing options for older people who need to find better, more affordable and secure accommodation. It can help older people who live in not-for-profit retirement villages, residential villages, residential parks, caravan parks and rental villages, who are vulnerable and/or disadvantaged, to:

- understand relevant laws and contracts, but cannot provide legal advice
- complete Consumer Affairs Victoria forms.

[oldertenants.org.au](http://oldertenants.org.au)

[haag@oldertenants.org.au](mailto:haag@oldertenants.org.au)

**Phone** 03 9654 7389 or  
1800 637 389

## Residents of Retirement Villages Victoria

A membership organisation for residents of Victorian retirement villages, which:

- provides information and support to retirement village residents
- educates its members and the broader community on issues affecting retirement village residents
- contributes to policy debate and advocates on behalf of the community of retirement village residents.

[rrvv.org.au](http://rrvv.org.au)

[rrvv@gmail.com](mailto:rrvv@gmail.com)

**Phone** 03 9015 8402

## Seniors Information Victoria

This government-funded organisation provides free information to older Victorians on:

- housing options (from independent living to residential care)
- home-based and community services
- general information on financial and legal issues
- health and wellbeing
- retirement
- learning opportunities.

It is a service of the Council on the Ageing, which aims to ensure the contributions of older people are recognised and acknowledged.

[cotavic.org.au/info/siv](http://cotavic.org.au/info/siv)

[askcota@cotavic.org.au](mailto:askcota@cotavic.org.au)

**Phone** 1300 135 090

247 Flinders Lane  
Melbourne VIC 3000

### **Retirement Village Association (RVA)**

The RVA is Australia's peak national body for the retirement village industry. It supports and promotes its members and advocates to government on housing and services for older people.

[rva.com.au](http://rva.com.au)

**Phone** 1800 240 080

### **Leading Age Services Australia – Victoria (LASA Victoria)**

LASA Victoria is the peak body for providers and other organisations associated with aged and community care, including providers of retirement housing.

[lasa.asn.au](http://lasa.asn.au)

[info@vic.lasa.asn.au](mailto:info@vic.lasa.asn.au)

**Phone** 03 9805 9400

### **National Seniors Australia**

This is the largest not-for-profit organisation advocating to all levels of government on issues relating to older Australians. It also provides members with a range of services and products specially tailored for the over 50s.

[nationalseniors.com.au](http://nationalseniors.com.au)

[npo@nationalseniors.com.au](mailto:npo@nationalseniors.com.au)

**Phone** 02 6230 4588

### **Association of Independent Retirees**

This is a non-party political organisation, representing the interests of retired and semi-retired people at all levels of government. It also provides information of interest to this sector.

[independentretirees.com](http://independentretirees.com)

[info@independentretirees.com](mailto:info@independentretirees.com)

**Phone** 02 6290 2599

### **Legal Referral Service – Law Institute of Victoria**

[liv.asn.au/referral](http://liv.asn.au/referral)

**Phone** 03 9607 9550

### **Victorian Civil and Administrative Tribunal (Civil List)**

[vcat.vic.gov.au](http://vcat.vic.gov.au)

**Phone** 1300 01 8228

### **Dispute Settlement Centre of Victoria**

[disputes.vic.gov.au](http://disputes.vic.gov.au)

**Phone** 03 9603 8370 or  
1800 658 528

[consumer.vic.gov.au](http://consumer.vic.gov.au)

1300 55 81 81 (local call charge)



Services from Consumer Affairs Victoria are also available at Ballarat, Bendigo, Box Hill, Dandenong, Geelong, Mildura, Morwell, Reservoir, Shepparton, Wangaratta, Warrnambool, Werribee and Wodonga. Our mobile service regularly visits rural communities.

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#### **TIS**

Translating and Interpreting Service **131 450**

#### **TTY**

Textphone or modem users only, ring the National Relay Service (NRS) on **133 677**, then quote **1300 55 81 81**.

Callers who use Speech to Speech Relay dial **1300 555 727**, then quote **1300 55 81 81**.