



# Retirement Villages

BUYING AND MOVING INTO  
A RETIREMENT VILLAGE

# THE LAW

The [Retirement Villages Act 1999 \(Qld\)](#) contains the law about the operation of retirement villages and the obligations of retirement village operators in Queensland. It does not contain the law about resolution of disputes between residents or the rights of tenants in retirement villages.

## IMPORTANT NOTICE

This kit is for residents who are considering entering a retirement village or have entered **on or after 1 February 2019**. Existing residents who entered into a residence contract prior to 1 February 2019 should be aware that the forms have changed, and that village operators are no longer required to provide incoming residents with a Public Information Document (PID). Instead, the disclosure documents (the VCD and PCD) are the standard forms that replaced the former PID. For retirement village residents who entered the retirement village before that date, the PID relating to their residence contract remains in force.

### Please note:

This self-help kit is designed to give you an overview of some key issues that you should consider before making the decision to enter a residence contract for a retirement village. However, this information is not a substitute for legal advice.

The Queensland Retirement Village and Park Advice Service (QRVPAS) cannot give prospective residents this kind of in-depth advice and, in particular, we cannot provide advice on the terms of residence contracts and disclosure documents.

If you require legal advice or assistance, we recommend you contact a private solicitor. We maintain a private solicitor list for the greater Brisbane area, available on our [Caxton Legal Centre website](#). Contact details for other private solicitors can be obtained from the Queensland Law Society via phone (1300 367 757) or their [Find a Solicitor](#) webpage.

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This information is current at December 2020.

## Disclaimer

This information is intended only as a guide. It is not a substitute for legal advice.

No responsibility is accepted for any loss, damage or injury, financial or otherwise, suffered by any person acting or relying on information contained in or omitted from this publication.

# ABOUT THIS KIT

This self-help kit is designed to assist potential residents in a retirement village understand the processes, their rights and obligations when buying and moving into a retirement village in Queensland.

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## COMMON TERMS EXPLAINED

**Retirement village:** a communal, self-contained housing environment for older people. Living options can include high-rise apartments, medium-density housing, townhouse developments and resort-style complexes, referred to as retirement village or village in this publication.

**Resident:** a person who lives in a retirement village and receives one or more services in the village.

**Retirement village operator:** a person or company who controls the operation of the village.

**Retirement village scheme:** a scheme where a person enters into a residence contract, pays the fee called 'an ingoing contribution' and obtains the right to live in the village and the right to receive one or more services in the village.

**Right to reside in a retirement village:** a term used to describe the right that a person has to live in a retirement village once they pay the ingoing contribution.

**Public Information Document (PID):** a document given to residents who entered a retirement village before 1 February 2019. It contains essential information about your rights and obligations as a resident. This forms part of your contract with the village.

**Prospective Costs Document (PCD):** a document given to prospective residents entering a retirement village contract on or after 1 February 2019. It sets out specific information about the unit that you are considering purchasing and gives an estimate of the costs of moving into, living in and leaving the retirement village. The PCD forms part of your residence contract with the village.

**Residence Contract:** the legal contract between the resident and the operator of the village.

**Village Comparison Document (VCD):** a document given to prospective residents entering a retirement village contract on or after 1 February 2019. It contains general information about the retirement village. The VCD forms part of your residence contract with the village.

## MOVING IN

When deciding whether to move into a retirement village, it is important to think about the type of lifestyle that you are trying to achieve and also the financial implications of the move. It is important to ensure that you receive all of the information that is specific to the village, and that you are aware of the fees that you will be required to pay.

Sometimes moving into a retirement village is not the best financial decision. It is a good idea to get independent financial advice before making a decision to move into a retirement village.

This kit contains information about the things that you may like to think about when considering whether to move into a retirement village. It contains general information only and should be read together with the disclosure documents, comprising the Retirement Villages [Form 3 Village Comparison Document](#) (VCD) and the Retirement Villages [Form 4 Prospective Costs Document](#) (PCD), which will be provided to you with any residence contract that you might be considering. You can download the standard VCD and PCD and residence contract from the [Department of Housing and Public Works website](#) or obtain one by calling the Department on 13 74 68. You can also request that any retirement village provide you with a copy of the VCD for their village.

## LIVING IN A RETIREMENT VILLAGE

Deciding to live in a retirement village is a lifestyle decision. You will be living and involved in a community that can offer a range of personal, health and lifestyle benefits for both you and your loved ones. However, this arrangement also impacts on your level of autonomy. For example, you will have no control over whom you share the village with and will have limited recourse if you do not get along with other residents.

Before committing to moving into a retirement village, you may wish to consider other similar housing options such as buying or renting a house, apartment or a manufactured home, or moving into retirement rentals or an aged care facility to determine the best housing option to suit your needs.

A defining feature of retirement villages compared to other retirement living options is the exit fee, which can be significant depending on the terms of the agreement.

## Deciding which retirement village suits you

The environment, structure and rules relevant to retirement villages vary greatly from village to village. It is important to consider the amenities and facilities that are offered at a particular village to ensure that these things align with your interests and preferences. To get a sense of what it will be like to live in a particular village, you may wish to speak with some of the residents first.

Be aware that two villages that seem very similar at first glance may have very different structures, and this can affect affordability. Even within a retirement village, there can be multiple options to obtain the right to reside in that village with different financial implications.

If you are moving into a retirement village with your partner, it is important to consider the possibility that you may eventually be separated by changes in the level of support that either of you require. It is important to think about how you might access a higher level of care should you and/or your partner eventually require it. It is also important to think about whether you will be able to finance the retirement village fees as well as any additional care costs.

### HAVE YOU THOUGHT ABOUT ...

- ✓ *what kind of lifestyle you want*
- ✓ *whether you will use the facilities that are offered at the village*
- ✓ *whether shops, transport and medical services are easy to access from the particular village*
- ✓ *whether the village is near family and friends*
- ✓ *any rules relating to guests and visitors*
- ✓ *whether you are allowed to take a pet into the village*
- ✓ *how secure your place in the village is*
- ✓ *whether you can move to an aged care facility if the need arises and whether you are guaranteed a place in that facility*
- ✓ *how disputes are resolved in the village (including whether a particular village has a history of disputes)*
- ✓ *what financial return you are likely to receive when you leave the village.*

## What type of legal interest are you purchasing?

There are various ways operators of retirement villages provide people with a right to reside in a retirement

village. It is important to understand how the village is structured because being a resident of a village is not the same as owning your own home, even if you have freehold title.

Options include:

- freehold—where you hold the title to the accommodation unit (similar to owning your own home). Although this may be the best way to ensure that you have secure tenure, it can sometimes be complicated by things like body corporates, lease backs, mortgages securing maintenance levies and powers of attorney
- leasehold—where your lease is registered on the title that relates to the land that the village is on
- loan and licence arrangements—where there is an agreement between you and the operator, and your interest in the property is not registered on the title that relates to the land that the village is on
- shareholder and company title—where you buy shares in the company that owns the retirement village, and these shares give you the right to occupy a particular unit in the village.

### **REMEMBER ...**

*It is important to get legal advice before you move into a retirement village so that you understand what type of legal interest you will have in the unit.*

## DOCUMENTATION

### **The disclosure documents**

The disclosure documents, along with the residence contract, are the important documents that you will receive when moving into a retirement village. They contain essential information about the village and your rights and obligations as a resident. As a prospective resident, you can also request operational documents about the village.

#### **The Village Comparison Document**

The village comparison document (VCD) gives general information about the retirement village to potential residents, including information about the facilities, accommodation and services, as well general information about costs, any plans for future development and turnover details for units in the village.

Pay particular attention to the following items that should be contained in the VCD:

- estimated exit fees and costs
- estimated ingoing contributions for all unit types in the village
- details or any current or future development or redevelopment of the retirement village, including whether there are any current development approvals
- the current ongoing fees and charges (e.g. general service charges and maintenance reserve fund contribution) for all units
- ongoing fees and charges for the past three years, to get an indication of how these costs may increase
- the age limit for residents
- the charge for maintenance and capital replacement (maintenance and capital replacement funds) and the fund balances over the past three years
- turnover details for the village (e.g. how long it takes for units to sell)
- the insurance the operator has in place and whether you have obligations to take out your own insurance
- the operational documents you can request, including the village's dispute resolution process.

#### **The Prospective Costs Document**

The prospective cost document (PCD) sets out specific information about the unit that you are considering purchasing and gives an estimate of the costs of moving into, living in and leaving the retirement village, including the exit fee you will pay if you leave the retirement village after certain periods of time.

You should pay particular attention to the following items that should be contained in the PCD:

- the ingoing contribution
- the estimated exit costs and fees for the unit if you leave after certain periods of time (e.g. after one, five or ten years)
- the amount of ongoing fees and charges for the unit
- the fixtures, finishings and furnishing provided in the unit
- your liability for paying reinstatement and renovation of the unit
- the communal facilities that are available for use in the village.

The information that is provided in the disclosure documents must be current as it forms part of the residence contract.

## The residence contract

A residence contract is a legal agreement between you and the operator of the retirement village. It may also be called a licence agreement, a lease or a loan agreement.

The agreement contains information about your rights and obligations as a resident of the retirement village. It includes providing you with a right to reside in the village and to use the communal facilities. It also contains information about the retirement village operator's rights and obligations.

The agreement must contain the following information:

- the start and end dates of the cooling-off period
- your right to withdraw from the agreement before the cooling-off period ends
- any conditions on your right to live in the village
- the amount of the ingoing contribution, maintenance reserve fund charge, general services fund charge, personal services fund charge and any other charge, as well as the dates that these charges are due
- the village's insurance details
- your right to see the village's financial statements
- information about the village's dispute resolution process
- information on reselling the right to live in the village
- the fee payable when you leave the village (the exit fee amount)
- the amount the operator of the village must pay you when you leave the village and your unit is sold (the exit entitlement)
- how the agreement can be terminated.

An agreement may also contain other things as long as they do not exclude or restrict the operation of the disclosure documents.

It is very important that you understand your rights and obligations contained in the disclosure documents and residence contract. It is a good idea to seek legal and financial advice about the disclosure documents and residence contract.

Please note that the law in this area may soon change to standardise the contents of residence contracts.

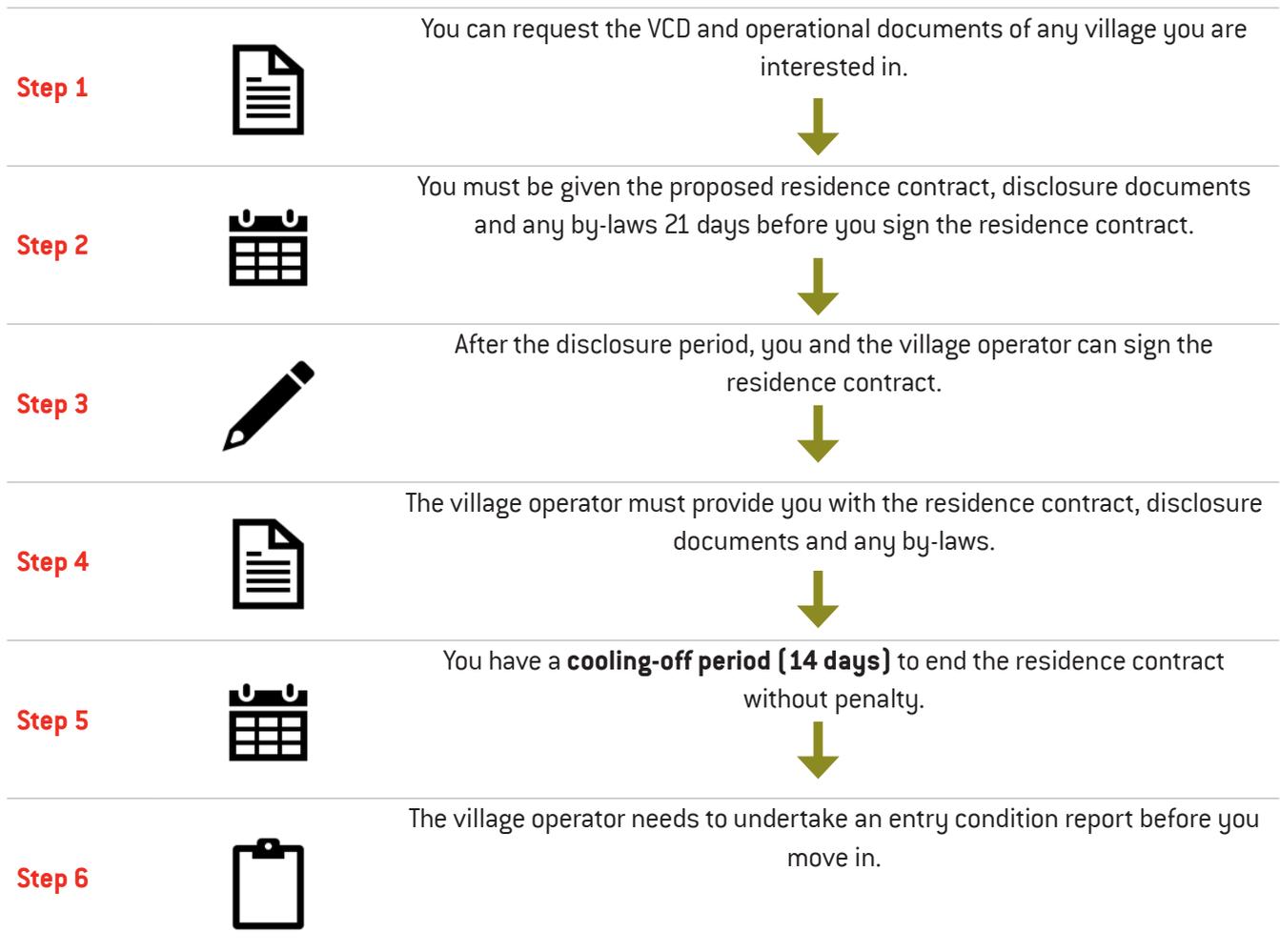
## Operational documents

As a prospective resident, you can request a range of operational documents to view when you are considering a village. These include:

- the registration certificate given for the retirement village
- a certificate of title or current title search for the retirement village land
- a site plan for the retirement village
- a plan showing the location, floor plan or dimensions of an accommodation unit in the retirement village
- a plan relating to an accommodation unit or facility being constructed on the retirement village land
- a development approval relating to construction or redevelopment of all or part of the retirement village
- a written plan about the redevelopment of the village
- statements of the balance of any statutory village funds (e.g. the capital replacement fund, maintenance reserve fund, general services charge fund, administrative or sinking fund) for the past three financial years
- a copy of the draft maintenance reserve fund budget and draft general services charge budget for the financial year
- templates of any contracts (e.g. draft residence contracts) the retirement village has entered into
- the retirement villages' dispute resolution and mediation policy
- certificates of currency for insurance policies
- any by-laws that have been made by residents and are in force
- annual financial statement presented at the most recent annual meeting of residents of the retirement village
- quarterly financial statements of up to the last two completed financial years
- a copy of the current PID that applies to existing pre 1 February 2019 residence contracts.

The list of available operational documents should be listed in the disclosure documents. You must request the operational document in writing and suggest reasonable time, at least seven days, for you to inspect or take a copy of the document.

## SIGNING A RESIDENCE CONTRACT



Flowchart 1: Buying and moving into a retirement village.

When you are considering different retirement villages, you can ask to see the VCD for the village. The village must provide this within seven days of your request.

As a prospective resident, you can also request operational documents about the village. Along with the VCD, the operational documents will help you compare retirement villages.

If you think you have decided on a unit in a retirement village, the operator of that village is required to give you documentation that includes the disclosure documents for the village as well as a copy of the proposed residence contract and any by-laws 21 days before you enter into a residence contract.

You then have a 21-day pre-disclosure period to consider these documents and get legal advice.

Once you have signed the residence contract, the village operator must provide you with a signed copy.

The residence contract, the disclosure documents, any by-laws and the [Retirement Villages Act 1999 \(Qld\)](#) (Act) govern your rights and obligations when living in the village.

You then have a **14-day cooling-off period** where you can terminate your residence contract without penalty.

Before you move into the village, the village operator needs to undertake an entry condition report in your presence to record the condition of the unit.

### Disclosure period

You must be given the proposed residence contract, disclosure documents and any by-laws at least 21 days before you sign the residence contract. This disclosure period is a recent addition to the Act, to allow you time to get independent legal advice on the contents of the legal documents before signing.

Once the 21 days have passed, you and the village operator can enter the retirement village residence contract by signing the residence contract.

You can waive the requirement for 21 days to pass between when you are given the retirement village residence contract and signing the residence contract by signing a Retirement Villages [Form 5 Precontractual Disclosure Waiver](#) after receiving advice from a lawyer about entering into the residence contract.

### Cooling-off period

After signing a residence contract, you have **14 days** within which you can terminate the agreement by telling the retirement village operator that you do not wish to proceed (this is described as **the cooling-off period**). If you decide to terminate a residence contract within the

cooling-off period, you must provide the operator with this information in writing. You do not need to provide a reason for your decision.

If you terminate a residence contract within the cooling-off period, you are entitled to have any money that you have paid to the operator returned to you.

### Entry condition report

After you have entered into your residence contract, and before you move in, the village operator must inspect your unit and complete a Retirement Villages [Form 6 Entry Condition Report](#) in your presence. This document records the condition of your unit when you move in, and can be used as evidence if there is a dispute over reinstatement of your unit when you terminate the residence contract.

## Things to do before you decide to move into a retirement village

-  1. Read the disclosure documents (Village Comparison Document and Prospective Costs Document) before you sign the residence contract. The village operator must provide you with a copy of these documents 21 days before you sign the residence contract.
-  2. Read the residence contract and any associated contract, and the Village by-laws (if any).
-  3. Consider requesting copies of operational documents for the village and reading these in detail (see the disclosure documents for a list of operational documents available).
-  4. Visit the retirement village and talk to some of the residents about day-to-day life in the village.
-  5. Inspect the unit that is for sale and make sure that you are happy with it.
-  6. Make sure you understand what items in the unit are your responsibility to repair and replace, and what are the responsibility of the village.
-  7. Check that anything advertised or promised by the village operator is included in your residence contract.

## Things to do before you decide to move into a retirement village cont.

- 
8.  Make sure you understand how the exit fees and other termination charges will be calculated.
- 
9.  Make sure you understand the ongoing fees and charges, and how they will increase.
- 
10.  Ask the village operator:
- if there are any current or proposed redevelopment plans for the village
  - for an estimate of the costs for reinstating and selling the unit
  - any other questions about the residence contract and disclosure documents.
- 
11.  Seek legal advice about the residence contract, disclosure documents and anything that you are unsure about including:
- anything that you do not understand about the purchase of the unit
  - what type of interest you hold in the property
  - whether purchasing the unit will have an impact on your will or succession planning.
- 
12.  Seek financial advice about whether entering a retirement village contract is the right thing for you based on your financial circumstances. Ask the financial advisor to explain the charges, fee increases, exit fees and other fees on termination.
- 
13.  Contact Centrelink to see whether your pension will be affected by the transaction.
- 
14.  Speak to the Aged Care facility on site (if any) about eligibility entitlements, and whether you are guaranteed a place in the facility.
- 
15.  Attend the unit while the entry condition report is being completed.
-

# LIFE IN A RETIREMENT VILLAGE

Life in a retirement village offers residents the use of communal facilities and the chance to interact with other residents. It also involves the payment of ongoing fees and the ability to participate in decision-making processes about the village and the way it is operated.

It is important to remember that both residents and village operators have rights and obligations when dealing with each other.

## Your obligations

Living in a retirement village means that you must respect the rights of other members of the community. This means that you (or your guests) must:

- not interfere with the peace, comfort or privacy of other residents
- respect the right of the village operator and their representatives to work in an environment free from harassment and intimidation
- not act in a way that negatively affects the occupational health and safety of a person who is working in the village.

## Village operator's obligations

Village operators must also respect the rights of residents, and their obligations include:

- not interfering (or allowing anyone else to interfere) with the reasonable peace, comfort and privacy of residents
- using their best endeavours to ensure residents are free from harassment and intimidation
- not restricting the right of a resident to exercise autonomy over their personal, financial or other affairs or possessions
- responding to written correspondence from residents, or their representatives, within a certain timeframe.

However, village operators are allowed to take action in an emergency if they believe the health and safety of a person in the village is at risk or to carry out urgent repairs.

## Fees and charges

No matter what type of tenure your unit is subject to, you will be charged fees when you are living in a retirement village. All fees should be clearly outlined in the disclosure documents and residence contract that

form your agreement to live in the retirement village. You must be provided with these documents before you decide to move into the village.

There is no law that restricts how much the ongoing contribution should be, and the operator of the retirement village will determine the amount payable. It will also depend upon the standard of the unit, the location and the facilities that are available within the village. Usually, the ongoing contribution that is payable for a new unit will be more than the contribution that will be charged for an older, pre-existing unit.

There is no law that sets or regulates the amount of an exit fee, how it is calculated or whether it is based on the ongoing contribution or the resale value when you leave the village. Exit fees and how they are calculated can vary significantly between villages.

## Fee increases

Fees often increase each financial year when village operators set budgets for both the general services charge fund and the maintenance reserve fund.

It is important to be aware that the general services charge can increase during the time you live in a retirement village. Many of these charges are limited to the Consumer Price Index increase, however, there are exceptions to these limitations. The exceptions include when:

- the residents of the village pass a special resolution whereby 75% of residents agree that the fee increase should be allowed
- the increase relates to expenses that the operator has no control over such as rates, insurance, tax payable and salaries.

Village operators are required to consider more cost-effective ways of providing services to residents before proposing an increase to the general services charge. The Village must set a general services charge fund budget for each year, and if expenditure exceeds the budget the residents committee may ask the village operator for an explanation.

A village operator can offer residents new services that will attract an additional service fee. The new service can only be introduced if the residents agree by special resolution at a residents meeting.

Asking the operator for details of recent increases in the general services charge may provide a good indication of how fees will increase at a particular village.

## Maintenance

Capital items are all buildings and structures that are located in the village and owned by the village operator. This can include communal facilities and units. If you are required to maintain, repair and replace items, this will be stated in the residence contract. Otherwise, unless a resident damages the item, the operator of the village must maintain all capital items from funds maintained by the operator. Residents contribute to capital maintenance costs through their contribution to the maintenance reserve fund.

However, you may be responsible for additional costs if you (or a group of residents) ask for capital improvements to be made—such as the addition of extra facilities at the village.

To find out details about the costs relating to maintaining capital items, residents are able to request copies of draft budgets for general services charge fund and maintenance reserve fund contributions.

Residents are usually required to maintain certain items within their retirement village unit. Residents may also be required to replace items within their units such as air conditioners or hot water systems, depending on the terms of their residence contracts. Residents and operators are able to agree on the extent to which the resident will maintain their own unit. If a resident takes greater responsibility for the maintenance of their unit, this should result in a reduced contribution to the maintenance reserve fund.

## Other costs

Not all costs are included in fees paid to live in a retirement village. Other costs that residents should take into account may include:

- contents and personal liability insurance
- electricity, gas and personal water consumption
- telephone
- personal maintenance and repairs.

## SALE OF THE VILLAGE

Like any business, a retirement village can be bought and sold. Where the existing village operator proposes to sell the village, they must prepare a transition plan. The transition plan is a written plan about transitioning control of the retirement village's operation from the existing operator to the new village operator.

The transition plan must be provided to the Director-General of the Department of Housing and Public Works (the Director-General), who then makes a decision to approve the proposed transition plan, or give the current village operator a direction to take action to revise the proposed transition plan. The Director-General may approve the proposed transition plan only if they are satisfied the plan provides for a clear, orderly and fair process for transitioning control of the village's operation from the existing village operator to the new village operator. If the transition plan is approved, the Director-General must give each resident a [Queensland Civil and Administrative Tribunal](#) (QCAT) information notice and the village must implement the transition plan during the sale of the village.

Once the transfer plan is approved and the village is sold, your rights and responsibilities under the residence contract will transfer to the new operator of the village.

### NOTE ...

The requirement to prepare and implement a transition plan only applies to sale contracts executed after 11 November 2019.

## REDEVELOPMENT IN THE VILLAGE

If the village operator wants to redevelop the village without winding it down or stopping the village from operating, including temporarily (a 'running redevelopment'), they must follow a process under the Act. Redevelopment is defined as including:

- constructing or demolishing an accommodation unit
- constructing, demolishing, expanding or reducing the size of a building or structure in the village (other than minor works)
- expanding or reducing the size of the retirement village
- changing the use of a building or structure in the village, other than a minor change
- any other matter prescribed by the Regulation.

The village operator must adhere to the following process when implementing a running redevelopment:

1. The village operator must prepare a written redevelopment plan in the approved form.
2. The village operator must give each resident a copy of the proposed redevelopment plan and a residents meeting notice. The residents meeting

notice contains further information about the process and timeframes for approving a proposed redevelopment plan.

3. Residents will then have the opportunity to vote on the proposed redevelopment plan by way of a special resolution at a residents meeting. A special resolution requires at least 75% of the residents to agree with the proposal. The vote cannot be held less than 21 days from when residents received the proposed redevelopment plan.
4. If the residents approve the plan, the village operator must give the Director-General a copy of the approved redevelopment plan within 14 days of the vote.
5. If the residents vote against the proposed redevelopment plan, the village operator may apply to the Director-General to approve the proposed redevelopment plan. Before deciding the application, the Director-General must give each resident a written notice inviting them to make submissions about the plan. The Director-General may then decide to approve the plan or require the village to revise the plan. This decision must be made within 90 days of the application or further information requested from the village operator being received by the Director-General, whichever is later. The Director-General can only approve the plan if it provides for a clear, orderly and fair process for the running redevelopment.
6. If the proposed development plan is approved by the Director-General, each resident must be given a QCAT information notice, and may apply to QCAT for a review of the Director-General's decision.
7. The village operator must, when carrying out the running redevelopment, comply with the approved redevelopment plan.

#### **NOTE ...**

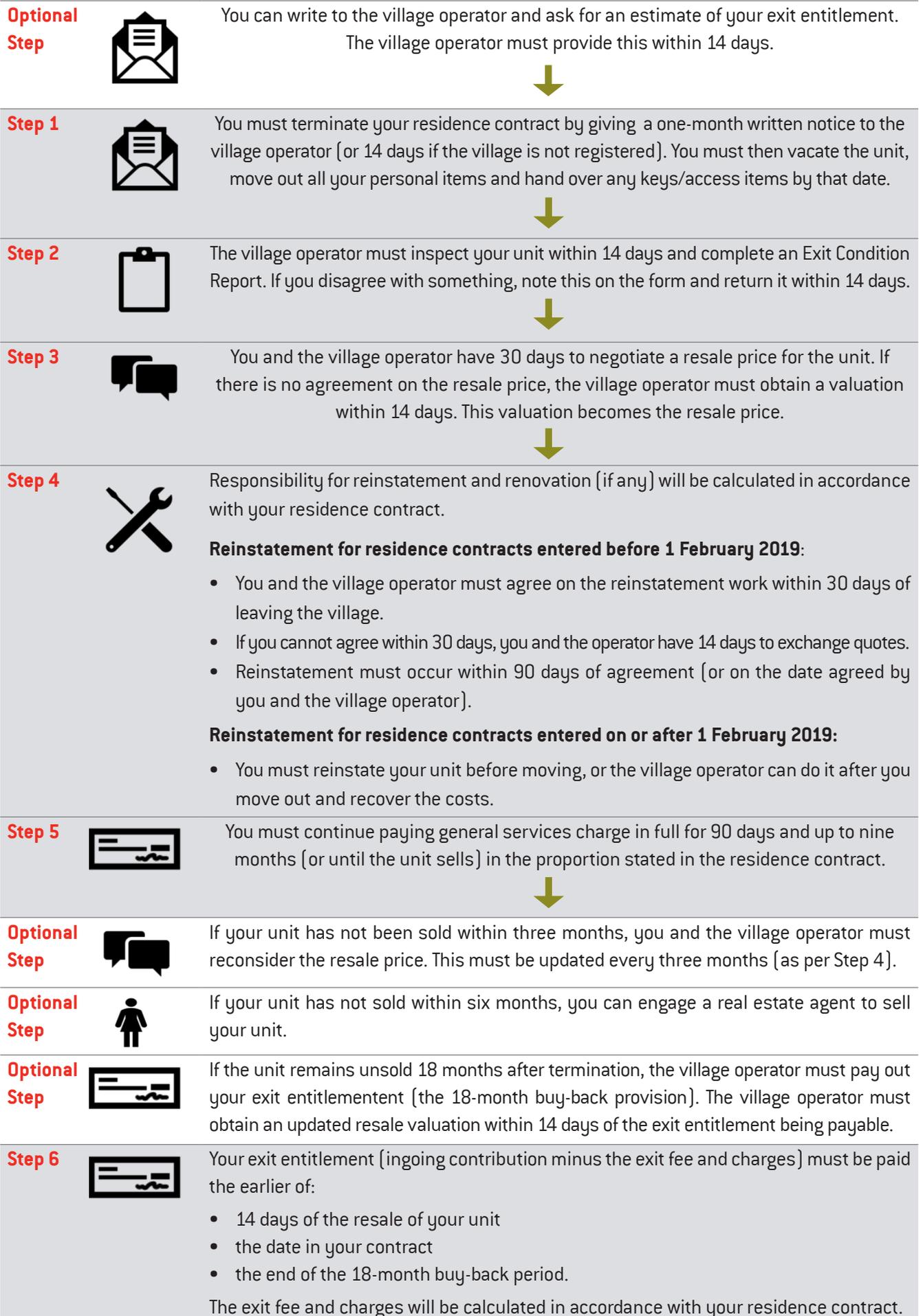
This process does not apply if the village operator has provided every resident with written notice of the running redevelopment before they became a resident in their Public Information Document, residence contract, Village Comparison Document, Prospective Costs Document or the village by-laws.

## CLOSURE OF THE VILLAGE

A village operator can also wind down or close a retirement village. To do so, the village operator is required to prepare a written closure plan using an approved form. The village operator must adhere to the following process when proposing to implement a closure plan for the village:

1. The village operator must give the Director-General notice about the proposed closure.
2. Within 28 days of notifying the Director-General, the village operator give each resident a copy of the proposed closure plan and a residents meeting notice.
3. Residents will then have the opportunity to vote on the closure plan by way of a special resolution at a residents meeting where at least 75% of the residents must agree with the proposal for it to pass. The vote cannot be held less than 21 days from when residents received the proposed closure plan.
4. If the residents approve the closure plan, the village operator must give the Director-General a copy of the approved redevelopment plan within 14 days of the vote.
5. If the residents vote against the proposed closure plan, the village operator may apply to the Director-General to approve the proposed closure plan. Before deciding the application, the Director-General must give each resident a written notice inviting them to make submissions about the plan. The Director-General may either approve the plan or give the village operator directions to revise the plan. This decision must be made within 90 days of the Director-General receiving the closure plan application or further requested information is received from the village operator, whichever is later. The Director-General can only approve the plan if it provides for a clear, orderly and fair process for the closure of the village.
6. If the proposed development plan is approved by the Director-General, each resident must be given a QCAT information notice, and may apply to QCAT for a review of the Director-General's decision.
7. The village operator must comply with the approved closure plan when closing the retirement village.

## SELLING AND MOVING OUT OF A RETIREMENT VILLAGE



Flowchart 2: Selling and moving out of a retirement village.

## Reselling the right to reside

Your right to reside can be sold once your residence contract has been lawfully terminated.

The process for terminating a residence contract is outlined in the disclosure documents.

How your right to reside in your unit is sold will depend upon the type of interest you hold in the property and the terms of your residence contract.

Sometimes the village operator has the right to sell the property. If this is the case there are laws that they have to comply with. If the village operator does not have the right to sell the unit, the residence contract will provide the process that must be followed.

Once you have decided to sell your unit, you and the village operator must negotiate in good faith to try and agree on the resale price. If no agreement is reached within 30 days from the date that the residence contract is terminated, the village operator must obtain a valuation within a further 14 days. This valuation then becomes the resale price. It is likely that you will need to contribute to the cost of the valuation.

If the village operator has not resold your unit within six months after the termination date, and you have not received your exit entitlement, you can engage a real estate agent to sell your unit. If you do engage a real estate agent, you will be responsible for the payment of their fees and commission.

### **BUYER BEWARE ...**

- ✓ *Usually your exit entitlement will not be repaid until the right to reside in your unit is resold.*
- ✓ *Check your residence contract to see if the operator of the village will pay your exit entitlement early if the unit is taking a long time to sell.*
- ✓ *There may be no agreement that the operator of the village will buy your unit from you when you leave the village or pay your exit entitlement early.*
- ✓ *If your unit does not sell immediately, you may not get your exit entitlement for some time.*

## Exit condition report

Within 14 days of terminating your residency, the village needs to inspect your former unit and complete a Retirement Villages [Form 7 Exit Condition Report](#) describing the condition of your unit.

If you disagree with something on the exit condition report, you should note this on your copy of it and return this to the village within 14 days.

This form, along with the entry condition report, provides evidence of the condition of the unit from entry to termination, and can be referred to if there is a dispute over reinstatement.

## Getting your unit ready to sell

Before selling your unit, it must be returned to the same condition it was when you move in, apart from fair wear and tear and any renovations or changes to the condition of the unit that were carried out by agreement between you and the village operator. This is called 'reinstating' your unit.

You need to pay the costs of reinstating your unit, unless your disclosure documents say otherwise.

You must either undertake reinstatement by leaving your unit in the same condition it was in when you moved in (save for fair wear and tear etc.) before moving out, or once you have moved out, the village operator may do the work and recover the costs from you.

If the village operator wants to undertake renovation work in or affecting your unit, you and the village operator need to agree on a date for the renovation to be completed. The village operator must stick to this timeframe.

Generally, you will share renovation costs with the village operator in the same proportion that you will share proceeds from the unit's sale (capital gains).

If you and the village operator cannot agree on the reinstatement or renovation work to be undertaken, you can apply directly to QCAT to resolve the dispute without attempting informal negotiation or mediation. See our [Dispute Resolution factsheet](#) for further information.

### **INFORM YOURSELF ...**

*Before you move into a retirement village, you should find out about the costs involved in selling your unit and potential costs to reinstate your unit. The manager of the retirement village should be able to give you an indication of how much it usually costs to reinstate a unit.*

## THE RESALE PROCESS

The village operator must promptly advise you of all offers made to purchase your retirement village unit if you have left the village and have not been paid your exit entitlement. Also, you are able to ask the village operator to provide a monthly update about the sale process, including information about:

- all sales enquiries made relating to your unit
- steps taken to promote the sale
- information about other units for sale at the village.

### What if the unit remains unsold?

On 10 November 2017, changes to the Act introduced a requirement for village operators to pay out exit entitlements if a unit remains unsold for 18 months. For agreements terminated before 10 November 2017, the 18-month period will begin on 10 November 2017. For agreements terminated after 10 November 2017, the 18-month period will start from the date of termination.

If you cannot come to an agreement over the resale value at the conclusion of the 18-month period, the village operator is required to obtain an updated resale valuation of the right to reside. This must be obtained within 14 days of the date the exit entitlement becomes payable.

### Exit fees

Understanding how exit fees are calculated at different villages that you are considering moving into is vital. The exit fee is an amount of money that you may need to pay the village operator when you stop living in the village. Exit fees are sometimes referred to as deferred management fees. Your residence contract will probably provide that the retirement village operators can deduct your exit fees and other costs from the proceeds of the sale of your unit.

How your exit fee is calculated will be provided in your disclosure documents. Exit fees are often calculated by having regard to the ingoing contribution you pay when moving into a retirement village, although sometimes exit fees are calculated based on a new resident's ingoing contribution and the length of time you have lived at the village. For example, the exit fee may be 5% of the ingoing contribution for the first year of residence and then increase to 10% for the second year and so on.

There is usually a maximum percentage to be taken as an exit fee. For example a residence contract could state that 40% of your ingoing contribution is to be paid after a period of seven years at the village.

You can ask the village operator to provide you with an estimate of your exit entitlement. The estimate must be provided by the village operator within 14 days of receiving your request in writing.

### Ongoing fees

When you leave a retirement village, your obligation to pay the full amount of the general services charge will continue for 90 days unless the unit sells earlier. Residents whose unit remains unsold after 90 days may then have a continuing obligation to pay part of the general services charge for up to nine months after termination.

You may also have to pay personal services charges for up to:

- one month after you give notice that you are vacating
- fourteen days after you give notice because the village is not registered
- fourteen days after the operator gives notice due to dangerous behaviour or, if the notice is extended, 14 days after the extension period
- two months after the operator gives notice because you have breached the agreement, abandoned the unit or been assessed as medically unfit to live in the unit.

### Rights of relatives

Your right to reside in your unit ends on your death or when you terminate your residence contract and leave the retirement village. If your spouse or relative has lived in the unit for six months or longer without being on the agreement, they can live in the unit for three months after you die or leave the village. During this time your relative has all the rights and liabilities of a resident. They must write to the operator stating that they agree to the terms of the agreement while they live in the unit. They must do this within 14 days of the date of your death or from the time at which you no longer live in the unit.

Your relative may also wish to enter into a residence contract to live in the unit. They may do so if all of the below applies:

- your interest was leasehold or licence
- no other person has a right under the agreement to live in the unit
- they meet the eligibility criteria to live in the village
- they give written notice of their wish to enter into a residence contract
- they meet the eligibility timeframes under the Act.

## UPCOMING CHANGES TO THE LAW

There have been recent changes to the *Retirement Villages Act 1999* [Qld]. All of these changes have now commenced, however, the government is yet to release the standardised residence contracts and standard forms for financial reporting and budgets for retirement villages. It is expected that these forms will be finalised and implemented through amendments of the *Retirement Villages Regulation 2018* [Qld] in 2020. This publication includes changes up until September 2020.

## CONTACTS

### QUEENSLAND RETIREMENT VILLAGE AND PARK ADVICE SERVICE

This service, situated at Caxton Legal Centre Inc., provides free legal advice and information about the law relating to manufactured homes.

Caxton Legal Centre  
1 Manning Street  
South Brisbane Qld 4101

Tel.: (07) 3214 6333

[www.caxton.org.au](http://www.caxton.org.au)

### ASSOCIATION OF RESIDENTS OF QUEENSLAND RETIREMENT VILLAGES

This association provides advice and information to members about dispute resolution.

Tel.: 0437 906 074

[www.arqrv.org.au](http://www.arqrv.org.au)

### DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL

This department provides a free dispute resolution service to help mediate disputes without having to go to court.

Tel.: 1800 017 288 (toll free outside Brisbane)

### QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

The tribunal can make orders about disputes relating to retirement villages.

Tel.: 1300 753 228

### QUEENSLAND LAW SOCIETY

This service can provide referrals to a lawyer who has experience advising and assisting people who are thinking of moving into a retirement village.

Tel.: 1300 367 757

seniors enquiry line

Tel.: (07) 3842 5842

### DEPARTMENT OF HOUSING AND PUBLIC WORKS—REGULATORY SERVICES UNIT

The unit regulates the *Retirement Villages Act 1999* [Qld]. This includes investigating complaints and alleged breaches of the Act.

GPO Box 690

Brisbane Qld 4001

Tel.: (07) 3008 3450

Fax: (07) 3008 5960

email: [regulatoryservices@hpw.qld.gov.au](mailto:regulatoryservices@hpw.qld.gov.au)

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