ACSA Fact Sheet

ACSA
Aged & Community Services Australia

RETIREMENT VILLAGES: WHAT ARE THEY?

A retirement village is broadly defined as a complex containing residential dwellings that are predominantly or exclusively occupied by residents who are aged over 55 years, or who have retired from full--time employment. While this has been a common entry specification, recent surveys have found that the average age of entry is 75 years and the average age of residents is 80 years. The average length of stay of residents is seven years.[1]

The 2015 Productivity Report[2] found the popularity of retirement villages is increasing faster than any other age--specific housing option in the country. They are home to approximately 5% of Australia's population aged 65 years plus.

Retirement Villages are regulated by state and territory legislation with a number of jurisdictions supplementing the Retirement Villages Acts with Regulations.

A retirement village does not generally include[3]:

- Part of a complex that is used for residential care as defined under the Aged Care Act 1997
- A caravan park
- Premises that are subject to a residential tenancy agreement
- A boarding house or lodging house.

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As of 2014, there were approximately 180,000 people living in 2,270 villages offering 141,600 dwellings across Australia[4].

Data collected[5] on retirement villages shows us that:

- Two thirds of all village residents are female, with the largest demographic being single females (51%0, followed by couples (36%) and single males (13%);
- The average two-bedroom retirement village dwelling costs $385,000 (68% of the cost of the median house price in the same postcode);
- The average monthly service fee, covering the cost of common village facilities, services and staff, is $434 (just over 25% of the monthly pension for full single pensioners);
- 71% of units are two bedrooms.

Villages are different sizes and styles and provide a range of services and facilities. Some are run by private operators on a commercial basis while the majority are run by not for profit community, church and charitable organisations. Operators may be single village entities or large national businesses.

RETIREMENT VILLAGES - LEGISLATION

The various jurisdictions look to emphasise consumer protections.

Over time, there has been progress towards more prescriptive outcomes and standard nature of village contracts.

Broadly, most jurisdictions seek to achieve the following broad principles: (NSW RIS and Gadens)

- Clarify the rights and obligations of residents and operators of retirement villages.
- Facilitate the disclosure of all important information relevant to a person who is considering entering into a particular retirement village.
- Require contracts to contain full details of the rights and obligations of the parties.
- Facilitate resident input where desired by residents into the management of retirement villages.
- Establish appropriate mechanisms for the resolution of any disputes between residents and operators.

Legislation can variously include provisions around cooling--off and settling--in periods.

WHAT ARE THE CONTRACT OPTIONS?

The most common types of retirement village contracts offered are long term or lifetime leases or licence agreements[6] between the purchaser and the village operator.

Options include:

- Leasehold arrangement - where the village operator owns the premises and you lease the unit from the operator. If you sign a long--term lease, it is registered on the title deed.
- Loan and licence arrangements – where you pay an ingoing contribution up front in return for the right to occupy the premises.
- Strata or community title schemes – where you purchase the unit and become the owner and a member of the owners' corporation.
- Rental arrangement – a small number of villages offer premises for rent to retired people. The resident signs a residential tenancy agreement and pay rent like other tenants in the general community. The agreement may contain a term excluding the resident from the retirement village laws. The residential tenancy laws apply.

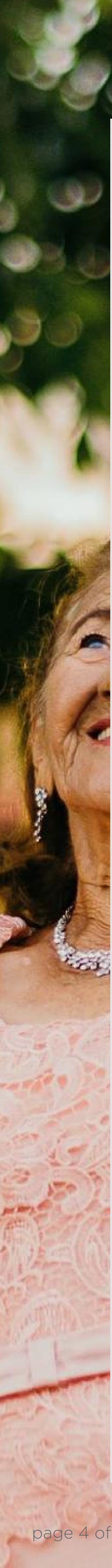
WHAT ARE THE DISPUTE RESOLUTION OPTIONS?

Mechanisms for resolving disputes vary from state to state.

Options available include:

- Consumer Affairs Fair Trading departments can offer telephone enquiry and sometimes mediation services.
- Formal applications can be taken to state based Civil and Administrative Tribunals. Tribunals usually offer conciliation as a first step with only a few cases proceeding to a formal hearing.
- Disputes taken to the court systems.

Consumer groups are available to residents for support and advocacy such as the state based retirement villages resident's associations and state based older person's advocacy services.



WHAT ARE THE STANDARD FEES AND CHARGES?

INGOING CONTRIBUTION / ENTRY FEE

This is the payment a person pays the operator to become a resident of the village. In 2016, the national average price in Australia for a two bedroom independent living unit was $398,000[7].

RECURRENT CHARGES / MAINTENANCE FEES / SERVICE FEE

A resident pays these charges for the ongoing operation and maintenance of the village. These funds go into a resident budget and do not contribute to operator funds. In its 2016 Census, PwC found the average monthly service fee for a single resident, on a cost recovery basis, was $409[8].

Annual variations to the charges are set out in the resident contract and can be calculated either by fixed formula or by notification. Residents usually have a say on how these funds are spent at the time of the annual budget review.

DEPARTURE FEE / EXIT FEE / DEFERRED MANAGEMENT FEE

This is a fee paid by a resident to the operator following their departure. How this works and how it is calculated is poorly understood by the general community.

It is usually expressed as a percentage of the original or next ingoing contribution and is taken out of the departure refund at the time of departure. The deferred payment percentage typically increases with tenure.

For example, an ingoing contribution might be $200,000. At a typical rate of 6% per year for 5 years (a life maximum of 30%) the deferred management fee would be $60,000.

This is calculated on a pro rata daily basis. The time taken to refund an ingoing contribution is guided by the relevant states retirement villages legislation and the residence contract that is in place.

Many not-for-profit providers have internal 'buy-back' policies that stipulate a time frame shorter than the statutory buy-back period.

REPAIR / REINSTATEMENT FEES

Typically the former resident is responsible for any repairs to return the unit to its condition upon entry, not including wear and tear.

REFURBISHMENT FEES

Some jurisdictions require the operator to pay for a unit to be refurbished after a resident leaves their unit.

FEES AND CHARGES TRANSPARENCY

Fees and charges are required to be listed in contracts / disclosure statements prior to the signing of contracts.

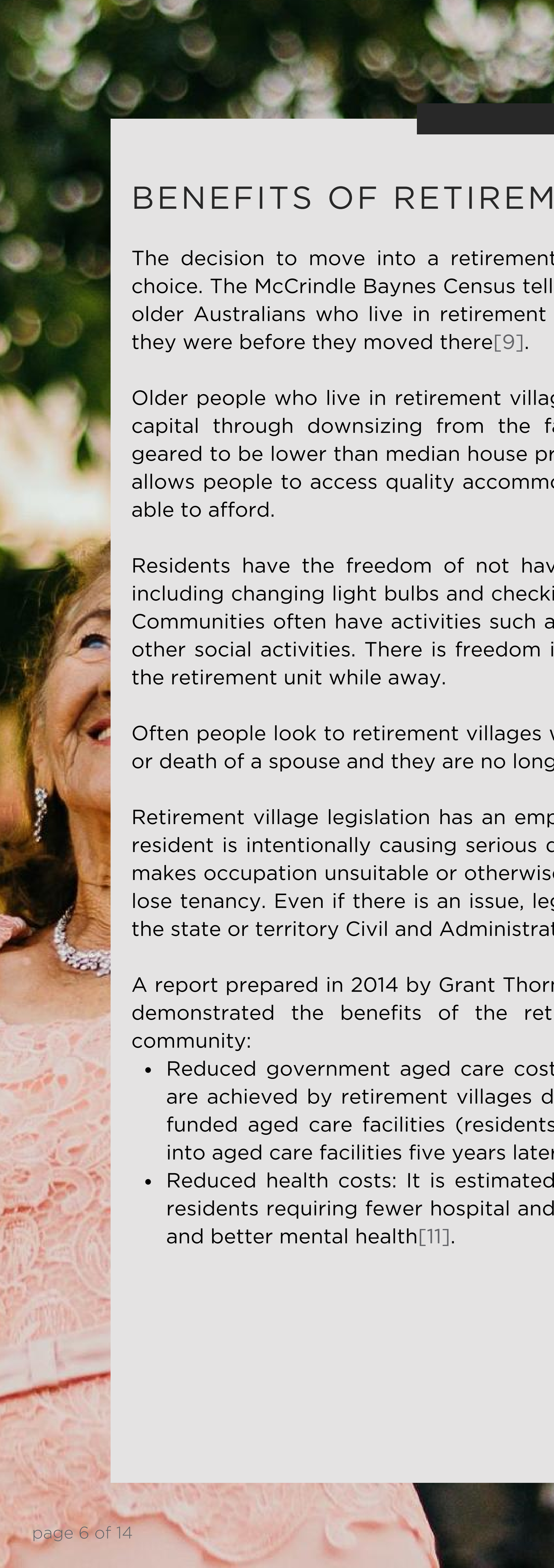
WHAT ARE THE KEY ISSUES?

Although research consistently shows that retirement village residents enjoy high levels of satisfaction in living, social and financial arrangements, recent events have shown that this is not universally the case.

There is more that government and the industry can do to improve transparency and promote consistent standards across the industry.

Where people are dissatisfied, the negative media can be summarised into three main concerns[12]:

- Dissatisfaction with the actions of the retirement village operator or manager;
- Not understanding the contract they signed before entering the village; and
- Dissatisfaction with the nature of fees charged during village tenure or upon leaving.



BENEFITS OF RETIREMENT VILLAGE LIVING

The decision to move into a retirement village is often regarded as a lifestyle choice. The McCrindle Baynes Census tells us that the vast majority of the 184,000 older Australians who live in retirement villages are happy and are happier than they were before they moved there[9].

Older people who live in retirement villages enjoy community living and freed up capital through downsizing from the family home. Entry prices are generally geared to be lower than median house prices in the same postcode[10]. This often allows people to access quality accommodation that they might not ordinarily be able to afford.

Residents have the freedom of not having to worry about house maintenance including changing light bulbs and checking smoke alarm batteries and gardening. Communities often have activities such as a library, bus trips, walking groups and other social activities. There is freedom in knowing that someone is looking after the retirement unit while away.

Often people look to retirement villages when there is an unexpected health scare or death of a spouse and they are no longer able to cope.

Retirement village legislation has an emphasis on consumer protections. Unless a resident is intentionally causing serious damage or injury; has medical issues that makes occupation unsuitable or otherwise breaches the contract, residents cannot lose tenancy. Even if there is an issue, legislation requires an operator to apply to the state or territory Civil and Administrative Tribunal.

A report prepared in 2014 by Grant Thornton for the Property Council of Australia demonstrated the benefits of the retirement village sector to the broader community:

- Reduced government aged care costs: $1.98 billion[4] of health care savings are achieved by retirement villages delaying residents' entry into government funded aged care facilities (residents in retirement villages on average enter into aged care facilities five years later than those going from a family home).
- Reduced health costs: It is estimated that $177 million can be saved through residents requiring fewer hospital and GP visits, earlier discharge from hospital and better mental health[11].

ACSA'S RESPONSE

On the operation of retirement villages in Australia, ACSA supports:

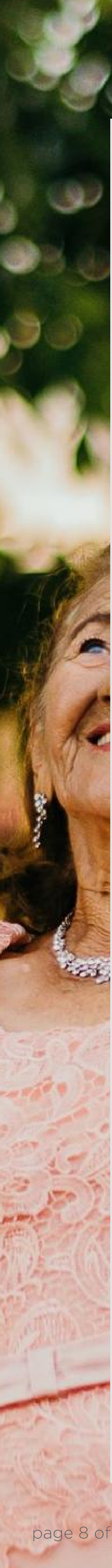
- Nationally consistent and harmonised legislation and guidelines for contracts;
- A review of contract terms, fees and charges, refurbishment costs and other practices to ensure strong consumer protections in line with the Australian Consumer Law;
- Standard contracts which are concise, easy to read and comparable between village operators;
- Prospective residents being encouraged to seek legal and financial advice before signing contracts;
- Legal and financial services sectors that are adequately trained to manage what is unique in the Retirement Villages legislation and 'right to reside' tenure arrangements;
- Retirement villages meeting specific retirement villages legislation and other relevant legislation such as building codes and consumer laws.
    - Note some organisations offer both retirement villages and Commonwealth funded programs. These organisations are therefore subject to Commonwealth accreditation and quality reporting.
- Improved dispute resolution options and processes that are clearly available, easily accessible, cost effective and fair to all;
- Exploring and developing a useful, meaningful Code of Conduct for both village operators and residents; and
- Effective relationship between industry peak bodies and the Retirement Villages Residents Associations for resident and operator issues that arise.

STATE GOVERNMENT POSITIONS

NEW SOUTH WALES

The government in July 2017 announced a four-point plan regarding retirement villages:

- An inquiry led by Kathryn Greiner AO to examine all registered retirement villages across NSW, and their compliance with the Retirement Villages Act 1999. The Greiner Inquiry is due to report back by 15 December 2017.
- An overhaul of the Retirement Villages Regulation 2009 which included proposed changes requiring greater transparency around fees and charges in contracts took effect 1 September 2017.
- An online calculator to help prospective residents and their families better understand and compare the estimated costs of living in a retirement village. This was prepared by KPMG and is available on the Fair Trading website.
- NSW Fair Trading launched a compliance blitz targeting NSW retirement villages.



QUEENSLAND

The government on 25 October 2017 passed new legislation Housing Legislation (Building Better Futures) Amendment Bill 2017 in Queensland parliament to reform the Retirement Villages Act 1999 (QLD).

Reforms were:

- 18--month statutory buy back period;
- 21--day pre-contractual disclosure process;
- Distinction made between resident funded ‘reinstatement works’ and ‘renovation works’ after a resident leaves the unit;
- Condition reports required before and after occupancy;
- Village redevelopment plans to be pre-approved by the residents’ committee or Department of Housing and Public Works;
- Village budget formats to be mandated; and
- Standards set for resident and operator behaviour.

The QLD government has also set aside $1 million over two years to provide advocacy and support through peak groups and resident associations to assist retirement village residents, manufactured home owners and residents of boarding houses.

SOUTH AUSTRALIA

The Retirement Villages Act 2016 and Retirement Villages Regulations 2017 will come into effect on 1 January 2018.

Key changes include:

- Maximum of 18-month buy back period for the operator to pay back exit entitlement;
- New disclosure statement, condition report and contract content;
- Operators to fund aged care daily accommodation payments up to 85% of exit amounts where a departing resident enters aged care;
- Allow residents to terminate their residencies but retain possession for 15 months;
- Increased transparency and consultation on budgets; and
- Tougher non-compliance measures.

AUSTRALIAN CAPITAL TERRITORY

The government, after a lengthy public consultation period, introduced amendments to the Retirement Villages Act 2012 and Retirement Villages Regulation 2013 which came into effect on 16 December 2016.

Since this time, a government, industry and consumer Review Advisory Group has continued to meet to address ongoing issues for operators and residents and what further legislation changes may be needed.

Some issues included:

- Development of Capital Maintenance and Capital Replacement a set of guidelines that would assist with clarification around this vexed area;
- Strengthen compliance - penalties for proven breaches were not being enforced;
- Renting in retirement villages – concerns are around protection of ingoing contributions, voting rights and accessible housing for older people; and
- Development of standard documents.

NORTHERN TERRITORY

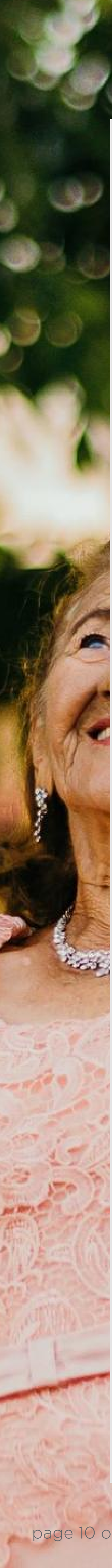
The regulation of retirement villages is covered by the Retirement Villages Act 1995 (NT) (The Act) and is supported by the Retirement Villages Regulations as in force at 1 May 2016.

The Act sets out the framework in which retirement villages are to operate and covers issues such as:

- The protection of the interests of the residents, resident owners and management groups;
- Dispute resolution mechanisms; and
- Content and termination of residence contracts and accommodation transfers.

Schedule 2 of the Regulations covers the Retirement Villages Code of Practice.

The Commissioner of Consumer Affairs is responsible for the administration of The Act.



WESTERN AUSTRALIA

The Retirement Villages Act WA 1992 was Assented on 19 June 1992. It has been reviewed and the current version is dated 1 April 2014. The current version of the WA Retirement Village Regulations 1992 is dated 3 February 2017.

- Cap on payment of recurrent charges when a person leaves the village -- Residents in non--owner villages (that is residents who have a lease or licence) now have a cap on the length of time that they must continue paying recurrent charges (monthly fees) after they have permanently vacated the village.
- For residents whose contracts were dated before 1 April 2014 only continue paying their recurrent charges for 6 months after they have permanently vacated.
- For residents whose contracts are dated 1 April 2014 or later, the recurrent charges are payable for only 3 months after they have permanently vacated.
- Mandatory disclosure statement is in place.

TASMANIA

The sector is governed by the Retirement Villages Act 2004 (The Act). The Act requires that before a person enters into a residence contract, the retirement village operator is to provide them with:

- A contract of the residence contract;
- A copy of the village rules;
- A checklist of questions they should consider when thinking about entering a retirement village;
- A notice of their rights under the Retirement Villages Act 2004; and
- A copy of any financial information that is available.

Disputes – If the parties are unable to resolve a dispute, either party can apply to the Director of Consumer Affairs and Fair Trading, to resolve the dispute.

VICTORIA

The government conducted a 12-month inquiry into the retirement villages sector which included 766 submissions and hearing from 90 witnesses. In March 2017 the committee delivered 15 recommendations. It repealed existing regulations on 30 July 2017 and the Retirement Villages (Contractual Arrangements) 2017 came into force.

On 7 September 2017, the government tabled its response which included:

A commitment to:

- Review the Retirement Villages Act 1986; and
- Examine village accreditation options and consider the implications.

An acknowledgement that some recommendations were already being addressed:

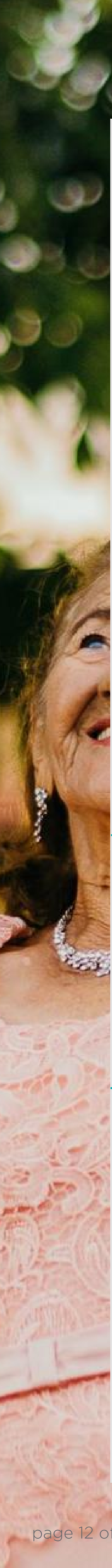
- Concise and clear contracts;
- Standard documents – enhanced disclosure statement and retirement villages factsheets requirements;
- 'Aged care rule' - Operators to fund aged care daily accommodation payments from exit amounts where a departing resident enters aged care;
- Dispute resolution – reviews are underway and consumer assistance programs are funded; and
- Unit holders compared to owners' corporation voting rights are being reviewed.

Not put forward or not supportive of a few of the committee's recommendations:

- Retirement Villages Ombudsman;
- Retirement Housing Zones; and
- Local government differential rating.

A commitment to working with other bodies:

- Legal and general practitioners' professional accreditation and training;
- Accredited and non--accredited courses for village managers; and
- Design villages with ageing in place in mind.



INTERFACE WITH AGED CARE

Retirement villages are a form of independent housing regulated by State / Territory Law.

Aged care services are Commonwealth Government funded and regulated. Retirement village residents may receive Commonwealth funded home care / support services if they are assessed as eligible. If their care needs increase and they are assessed as eligible, some retirement village residents move from a village into a residential aged care service.

Retirement village operators may not be separately approved to provide commonwealth aged care services including residential aged care. It is not uncommon for a retirement village to be co-located with a residential aged care facility.

The following table explains the differences and interfaces between retirement villages and commonwealth-funded aged care.

	Retirement Living Villages (RV)	Commonwealth Home Support Programme (CHSP)	Home Care Packages (HCP)	Residential Aged Care (RAC)
Jurisdiction	State & Territory	Commonwealth	Commonwealth	Commonwealth
Primary Legislation	State / Territory legislation generally under the title of Retirement Villages Acts. Usually have associated Regulations which supplement the operation of the Acts.	Launched in July 2015 CHSP consolidated a number of programs: HACC, National Respite for Carers Program, Day Therapy Centres, Assistance with Care and Housing for the Aged Program.	The Aged Care Act 1997 and associated legislation.	The Aged Care Act 1997 and associated legislation.
Provider status	Operate under state and territory legislation and must meet requirements contained within to operate as a retirement village. Where a retirement village also provides aged care services, they must meet separate aged care regulations.	A wide range of organisational types are eligible to apply for and deliver CHSP funded services including incorporated associations, companies, trusts, churches, state / territory or local governments.	Operators must be 'approved providers' as defined under the Aged Care Act 1997.	Operators must be 'approved providers' as defined under the Aged Care Act 1997.

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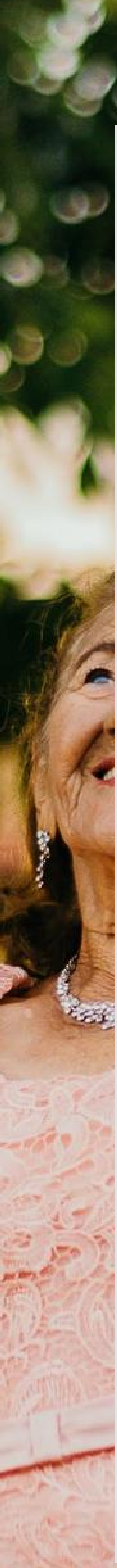
	Retirement Living Villages (RV)	Commonwealth Home Support Programme (CHSP)	Home Care Packages (HCP)	Residential Aged Care (RAC)
Quality, Compliance, Complaints and Reporting Regimes	State & Territory legislation. Dispute resolution processes apply. Consumer law also applies.	CHSP service operators are required to operate within the Commonwealth Home Care Standards and are subject to review by the Australian Aged Care Quality Agency. They are also subject to scrutiny by the Aged Care Complaints Commissioner.	'Approved providers' are subject to the quality, compliance, complaints and reporting regimes as defined by the Aged Care Act 1997. Oversight is attended by the Australian Aged Care Quality Agency, the Aged Care Complaints Commissioner and the Department of Health.	'Approved providers' are subject to the quality, compliance, complaints and reporting regimes as defined by the Aged Care Act 1997. Oversight is attended by the Australian Aged Care Quality Agency, the Aged Care Complaints Commissioner and the Department of Health.
Levels of support	Retirement Villages are independent housing options and residents live independently. Generally, villages offer communal facilities and emergency response systems. Village residents may gain access to additional support through paid assistance from the village operator, a CHSP or HCP program.	Generally, this is low level support either short term in nature or ongoing. CHSP services can be provided in people's homes, including in Retirement Villages.	Levels of support provided vary depending on the level of need, from low level through to more intensive inputs. These are generally higher than CHSP services but lower than residential care facilities. Home care packages are provided in people's homes, including in Retirement Villages.	Moderate dependency to fully dependent. Increased frailty requires higher levels of care and support. Residential aged care services are provided in approved residential care facilities. Such facilities may be co-located with a Retirement Village and provided by the same organisation.
Fees and Charges	Retirement Villages operate independent of government funding. The most common title is leasehold, also referred to as loan licence. Residents pay an ingoing entry contribution which is refunded less a DMF (deferred management fee) on exit. Residents are charged ongoing / maintenance fees to maintain the village. A resident may also receive a share of the capital gain or loss. This arrangement is outlined as part of the resident's contractual agreement.	This is a federal government subsidised service with clients contributing towards the cost of their care. The consumer contribution supports ongoing service delivery and expansion.	This is a federal government subsidised service. There is a basic daily care fee (17.5% of the full aged care pension) across all levels of the HCP program. Charging of this basic daily care fee is not mandated. For partially or fully self-funded clients there is a DHS means-tested fee with consequent Commonwealth subsidy reduction.	The resident on entry can choose to pay by: • A lump sum called a Refundable Accommodation Deposit (RAD); • A Daily Accommodation Payment (DAP); or • A combination of the two.



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