



Dealing with prospective residents

Retirement Villages Act 1999

The *Retirement Villages Act 1999* places a number of obligations on operators when dealing with prospective residents. This fact sheet outlines some of the important requirements operators, and their employees, need to be familiar with.



IMPORTANT

Any advertising, promotional and sales material must comply with the Fair Trading Act 1987 and the Trade Practices Act 1974.



QUICK TIP

Operators can reduce the length of their disclosure statement by omitting the parts which start with 'If Yes' if the answer to the previous question was 'No'.

Prospective residents must also be given a disclosure statement, in the form set out in Schedule 1 of the *Retirement Villages Regulation 2000*. Disclosure statements allow a prospective resident to narrow the field, by comparing what is on offer at a number of chosen villages.

When must the booklet and disclosure statement be supplied?

The booklet and disclosure statement will be most beneficial to a prospective resident if they are supplied as early as possible, such as in response to an initial enquiry. It is best if both documents are given together.

Operators should keep some sort of record as to when and to whom booklets and disclosure statements are given.

Who is a prospective resident?

A prospective resident is basically any person who indicates to the village operator that he or she is, or might be, interested in becoming a resident of a retirement village. This could include a person making a telephone enquiry or attending the village on an open day. A person does not have to have settled on a particular village or unit to be considered a prospective resident.

Does a disclosure statement have to be given to every inquirer?

Not every time, as a person making an inquiry may no longer be interested in becoming a resident when told some general details about the village, such as the costs involved or the length of the village's waiting list.

What if another person enquires on behalf of a prospective resident?

There is no difference whether a prospective resident or a person on their behalf, such as a family member, expresses an interest. Operators should deal with such people in the same manner as they would with the prospective resident.

What other documents must be available to prospective residents?

Village operators must have available for inspection, or provide copies free of charge on request, the following:

- samples of all types of village contract/s an incoming resident may be required to sign
- a site plan for the village
- plans showing the location, floor plan and dimensions of available premises

What documents must be given to prospective residents?

Operators must give all prospective residents a copy of the Office of Fair Trading's *Retirement village living* booklet. These can be obtained from any Fair Trading Centre.

The booklet outlines some of the basic rights and obligations under the *Act*. After reading the booklet, a prospective resident should have a better idea if retirement village living is for them, and if so, which type of village is most suitable for their needs.



IMPORTANT

An operator, employee or agent must not make a representation that is inconsistent with the information contained in the disclosure statement.




QUICK TIP

Operators can save on printing costs by double-siding their disclosure statement.



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business hours

- statements of proposed and approved expenditure (budgets) for the last three years, current financial year and next financial year, if available
- audited accounts of the village for the last three years
- the most recent quarterly accounts of the village
- the village rules (if any)
- a waiting list policy (if any)
- a trust deed (if any)
- the village's development consent, but only if construction of the village is not complete or if it is a condition of the consent that particular services or facilities be provided for the life of the village
- statements of the balances of any capital replacement or long-term maintenance fund of the village
- Court or Tribunal orders in the last five years and the reasons for the decision or order of the Court or Tribunal concerned
- if the village is subject to company title, a copy of the company's constitution and replaceable rules
- if the village is part of a strata scheme, a copy of the by-laws, any management agreement and the minutes of the last AGM of the owners corporation.

Can a waiting list fee be charged?

It is a matter for each operator to decide if they have a waiting list, and if so, whether a waiting list fee is charged. However, a waiting list fee cannot exceed **\$200**.

Furthermore, a fee can only be charged if the village has a written policy setting out the way in which the waiting list operates. A copy of this policy and a receipt must be given at the time of any payment.

Any person who has paid a waiting list fee, whether before or after the new *Act* started on 1 July 2000, can ask for a full refund at any time for any reason. Refunds must be made within 14 days of a written request.

Where to get more information

Fair Trading Centres

Tel. 13 32 20

Specialist Support Unit

Tel. 9895 0297

Toll free: 1800 625 963

TTY Tel. 9338 4943

Telephone service for hearing impaired.

Language assistance Tel. 13 14 50

Ask for an interpreter in your language

www.fairtrading.nsw.gov.au

This fact sheet must not be relied on as legal advice. For more information about this topic, please refer to the appropriate legislation.