

# Regulatory Guidelines for Retirement Village Scheme Operators

## Topic:

### **Exit entitlement statements and the costs of selling a retirement village unit**

**Regulatory Services, Department of Communities, Housing and Digital Economy**

## Purpose

The purpose of this document is to provide guidance to retirement village operators about:

- **Exit entitlement statements** – what information should be included in an exit entitlement statement
- **Costs of sale or costs for selling a unit** – what are the costs an operator can charge a former resident when reselling their unit

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Regulatory Services, Department of Communities, Housing and Digital Economy is responsible for the regulation of retirement villages in Queensland under the Retirement Villages Act 1999 (the Act) and the Retirement Villages Regulation 2018.

Regulatory Services investigate complaints from retirement village residents relating to alleged breaches of the Act and implements any subsequent education, engagement or enforcement action.

Investigations and audits have raised concerns regarding retirement village scheme operators:

- failing to provide sufficient information in exit entitlement statements
- failing to correctly state and calculate the proportionate costs of general service charges and maintenance reserve fund contributions after 90 days from the day the resident terminates the agreement.
- failing to state the particulars of any costs charged to former residents for the resale of their unit
- charging former residents amounts for reselling a unit which are not in accordance with legislative requirements.

**The following information reflects the minimum standards required to achieve compliance with the sections of the Retirement Villages Act 1999 and Retirement Villages Regulation 2018 which relate to the provision of exit entitlement statements and costs of sale.**

## What should be included in an exit entitlement statement

In the interests of industry compliance, consistency and transparency, the following information should be included in an exit entitlement statement:

1. Date of commencement of residency
2. Ingoing contribution paid upon entry
3. Date of termination of right to reside
4. Period of residency (years and days)
5. The amount of any exit fee payable and how it was calculated
6. The total amount of any capital gain or loss (if applicable), including the capital gain/loss payable to/by the former resident and how it was calculated
7. Any amounts payable for accrued outstanding general service charges or maintenance reserve fund contributions. A scheme operator must not charge interest on accrued amounts
8. Any amounts payable for accrued outstanding personal service charges
9. Any accrued or outstanding amounts payable for body corporate or sinking fund contributions, where applicable
10. The calculation used to determine any proportionate amounts payable for accrued or outstanding general service charges or maintenance reserve fund contributions – (i.e. for charges payable between 90 days and 9 months after termination), where the scheme operator and the resident share these costs. This should include details of the percentage of charges payable by each party and the period for which the amounts are payable
11. Amounts payable for any reinstatement and/or renovation costs broken down to show costings in accordance with quotes obtained. Copies of quotes may be attached to the exit entitlement statement
12. The amount of any scheme operator legal fees payable by the outgoing resident as provided for in the contract. This amount should include a breakdown of what these legal costs cover
13. Costs for selling the particular unit (see further costs of sale information below) – e.g. these costs could include the staff cost for showing the unit on multiple occasions, the actual cost for placement of advertising on the scheme operators website (this cost should be discussed with an existing resident prior to advertising), any valuation costs required under the Act. Each of these costs should be separately itemised
14. The calculation for the amount payable for costs of sale, detailing the percentage of costs payable by the scheme operator and the former resident. These costs are to be shared between the former resident and the scheme operator in the same proportion as they are to share the gross ingoing contribution
15. The total exit entitlement payable after all deductions
16. How and when the exit entitlement will be paid (e.g. direct deposit to a nominated account, cheque, etc).

## Costs of selling a unit

Costs of sales are limited to quantifiable costs that are actually incurred in relation to the sale of a specific unit.

On this basis:

- a. sale costs refer to actual costs incurred in relation to sale of the particular unit – they must be quantifiable and itemised for the particular unit
- b. sale costs cannot be calculated as a percentage of sale proceeds or annual marketing costs for the entire village
- c. a scheme operator cannot charge an outgoing resident a fee for costs of sale which is calculated as a percentage of the new ingoing contribution
- d. a scheme operator cannot charge an outgoing resident a fee for ‘the cost of finding a new resident’ which is a flat fee
- e. sale costs cannot include costs of advertising or marketing a retirement village brand
- f. sale costs cannot include costs of advertising or marketing a retirement village
- g. a scheme operator cannot charge a commission or fixed fee for the sale of a unit.

The costs of selling a retirement village unit can include costs which are the direct result of the sale of a particular unit or the right to reside in a unit. These can include costs directly associated with advertising the unit, demonstrating the unit to prospective purchasers and other specific costs including legal fees for the sale of the unit, advertising the unit on the scheme operators’ website, or valuation costs for the unit.

The costs of selling a unit are shared by the former resident and the scheme operator in the same proportion as they share the ingoing contribution upon the sale of the right to reside, as provided for in the residence contract.

## Relevant sections of the *Retirement Villages Act 1999*

**Section 53A** of the Act provides that where a residence contract requires that an exit fee is calculated having regard to the length of time the resident has lived in the village, the exit fee must be worked out on a daily basis.

[www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.53A](http://www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.53A)

**Section 54** of the Act provides that a scheme operator must give an estimated exit entitlement statement to a resident within 14 days after receiving a written request and notice that the resident is considering terminating their right to reside.

[www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.54](http://www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.54)

**Section 63** of the Act requires that a scheme operator must provide a former resident or their representative with an exit entitlement statement upon payment of their exit entitlement.

[www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.63](http://www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.63)

**Section 68** of the Act provides that a scheme operator must not charge a former resident a fee, charge or commission, however described, for selling the resident's right to reside in the resident's accommodation unit and details how the costs of selling a particular unit are to be shared between the operator and the former resident.

[www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.68](http://www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.68)

**Section 102** of the Act provides that an operator must not charge a former resident for personal service charges after the notice period required under sections 52 or 53 of the Act have lapsed or for more than 28 days after a residence contract is terminated due to the death of a resident.

[www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.102](http://www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.102)

**Section 104** of the Act provides the timeframes a former resident must pay general service charges and maintenance reserve fund contributions after termination, when the contributions must be shared between the former resident and the scheme operator, and when the former resident's obligations for payment of these contributions ceases.

[www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.104](http://www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.104)

**Penalties may be imposed for non-compliance with legislative requirements regarding the calculation and disclosure of costs of selling and exit entitlements for former residents.**

In the interests of resident consumer protection and consistent operator compliance, the Business Queensland website for retirement village scheme operator has been updated to reflect Regulatory Services' expectations for scheme operators to achieve compliance under the Act.

Below is a link to our updated web content for retirement village scheme operators which reflects the information provided below.

[www.business.qld.gov.au/industries/service-industries-professionals/housing-accommodation/operating-retirement-village/residents-leaving](http://www.business.qld.gov.au/industries/service-industries-professionals/housing-accommodation/operating-retirement-village/residents-leaving)

If you have any questions in relation to this information, please contact Regulatory Services by phone on (07) 3008 3450 or email [regulatoryservices@chde.qld.gov.au](mailto:regulatoryservices@chde.qld.gov.au).