

# Regulatory Guidelines for Retirement Village Scheme Operators

## Topic:

**Costs of selling a retirement village unit**

**Regulatory Services, Department of Housing**

## Purpose

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

- **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 Housing 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 about retirement villages relating to alleged breaches of the Act and implement any subsequent education, engagement or enforcement action.

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

- failing to state the particulars of costs charged to former residents relating to the resale of their unit/right to reside
- charging former residents amounts for reselling a unit/right to reside 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 costs of sale charged to residents after termination.**

## Costs of selling a unit

A scheme operator must not charge an outgoing resident a fee, charge or commission for selling the resident's right to reside in a retirement village, except under s 68(1) and (2) of the Act.

Section 68(1) provides that a former village resident and the scheme operator share the costs of selling a particular retirement village unit in the same proportion as they share the gross ingoing contribution upon the sale of the right to reside, as provided for in the residence contract.

Section 68(2) provides that a former resident who engages a real estate agent to sell their unit and the right to reside, must pay the real estate agent's costs of the sale, if any, and commission. A real estate agent refers to a real estate agent licenced under the *Property Occupations Act 2014*.

Costs of sale are limited to quantifiable costs incurred in relation to the sale of a specific retirement village unit. These costs must be shared by a scheme operator and a former resident.

The costs of selling a retirement village unit include costs incurred from the sale of a particular unit or right to reside, and can include but are not limited to:

- the cost of advertising the unit for sale on a website,
- staff costs related to demonstrating the unit and explaining village lifestyle options to prospective purchasers,
- valuation costs for the unit to determine the resale value

Sale costs:

- a. refer to actual costs incurred in relation to the sale of a particular unit and must be quantifiable and itemised for the unit
- b. cannot be calculated as a percentage of sale proceeds or as a percentage of the ingoing contribution
- c. cannot be calculated as, or include, a percentage of general marketing costs for an entire village or village brand
- d. may include a proportion of marketing costs for the joint advertisement of one or more units within a village that are for sale

A scheme operator cannot charge an outgoing resident for the costs of sale unless the amount charged is less than or equal to the resident's proportion (as set out in the residence contract) of the actual costs incurred for the sale of the right to reside.

Details of any costs of sale deducted from a resident's exit entitlement, must be included in a former resident's exit entitlement statement together with an explanation of the calculation used to determine the resident's proportion of the costs payable

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

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 60 of the Act provides that if a scheme operator and former resident cannot agree on the resale value of an accommodation unit, the scheme operator is to obtain valuation of the right to reside from a valuer.

<https://www.legislation.qld.gov.au/view/html/inforce/current/act-1999-071#sec.60>

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)

### **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.**

If you have any questions in relation to this information, please contact Regulatory Services by phone on (07) 3013 2666 or email [regulatoryservices@chde.qld.gov.au](mailto:regulatoryservices@chde.qld.gov.au)

#### *Disclaimer:*

*This guideline contains general information intended to inform persons about how the chief executive interprets and administers the Act. The information set out in this guideline reflects the chief executive's attitude to the minimum standards required to achieve compliance with the sections of the Retirement Villages Act 1999 and Retirement Villages Regulation 2018 which relate to exit entitlements and costs of selling a retirement village unit. Operators and residents should:*

- *not rely on this guideline as legal or financial advice; and*
- *carefully review the Retirement Villages Act 1999 and Retirement Villages Regulation 2018 to identify their rights and obligations; and*
- *obtain independent legal or financial advice about their own circumstances.*