

# RRVV

## Newsletter

Issue No 58 June 2020

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Registered Publication No. P.P. 100018833  
Reg No. 0048146R ABN 20341655161

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### 2020 - a year of emergencies

We started calendar 2020 in the grip of a bushfire emergency.

For some years, our members in bushfire-prone areas have been agitating for compulsory evacuation plans for retirement villages. Some operators have resisted claiming that residents signed up for independent living and were therefore responsible for developing individual evacuation plans.

The bushfires did threaten a few villages. RRVV knows of a village operator that had stubbornly maintained the independent living justification for refusing to implement a plan. As the fires came close, the operator saw the risks in its position. It quickly developed and implemented an effective plan. Luckily, the CFA brought the fire under control before evacuation became necessary.

The virus crisis was upon us before the bushfire season was over.

None of us wants to get the COVID-19 virus. It can make older people very sick. As well as making us sick, a virus outbreak could damage the reputation of a village for some years. It is in our best interests to do everything we can to:

1. Stop the virus getting into our villages. If we go out, we risk bringing the virus back in. Visitors also risk introducing the virus.
2. Stop the virus from spreading if it does get in. If we stay in our units, we lower the risk of picking up the virus from other people.

If we leave our units for one of the currently permitted reasons, we minimise the risk of picking up the virus by maintaining the required

1.5 metres separation from other people. We reduce the risk of spreading the virus by washing our hands before touching an object another person might handle, and after contact with a potentially contaminated surface.

Village operators have a duty to implement the policies of the relevant governments. Most have done so but to varying degrees. Nevertheless, our safety is also our responsibility.

### Coronavirus Survival Guide Especially for Over 50s and Seniors

The Australian Over 50s Guide has produced a version of its Corona Virus Survival Guide for RRVV members.

You can access this very helpful guide by entering the following URL into your browser. <https://livewellclub.com.au/rrvv-coronavirus-survival-guide-for-over-50s-retirees-seniors/>

RRVV highly recommends the guide.

### Contents

2020 - a year of emergencies .....	p1
Nominating for the RRVV Committee .....	p2
Subscription renewal for 2020/2021 .....	p3
Charges for unit upgrade after departure .....	p4
From the Beehive.....	p6
Increase in Service fees .....	p7
Apology .....	p8

Some residents try to get around the rules. You only have to look at the experience of Italy, Spain, the UK and the United States and Brazil to see how dangerous contempt for the virus can be.

Important as keeping the virus out of our villages and stopping it from spreading if it does get in is, surviving the virus also entails maintaining and even strengthening our social connections. Some of us have embraced video conferencing and teleconferencing as a way of keeping in touch while staying at home. Others have stuck with the humble telephone.

RRVV believes village operators have a responsibility to facilitate residents maintaining social connections during the crisis. So far, the picture is mixed. Some have gone as far as making iPads and corporate internet facilities available to interested residents who want to join in on video chat sessions. Others have organised teleconference calls for residents. A minority, however, seem unwilling or unable to rise to the challenge.

What responsibility do we want our operators to take for our safety in an emergency? Feedback received from our members indicates that most residents are supportive of the efforts of their operators to keep residents safe. Nevertheless, a significant minority have questioned the legal authority of their operator to impose certain restrictions. Recent restrictions on access to villages produced some feisty criticism. Similarly, a significant minority have criticised their operator for being slow to act on the virus. Others have been critical of their operator for not enforcing government-mandated restrictions. For example, residents with compromised immune systems argue that residents not obeying the stay at home and social distancing rules are putting their lives at risk. They want their operator to intervene. RRVV points out that only Victoria Police have the power to enforce COVID- 19 restrictions.

If we want our operators to take responsibility for our safety in an emergency, are we comfortable with them having any necessary additional legal powers? What additional rights might residents need? Please let us know your views.

## **Nominating for the RRVV Committee**

Our September newsletter will contain a call for written nominations for all committee positions for the following twelve months. Our rules also allow nominations from the floor at our Annual General Meeting.

We rarely receive enough nominations to fill all committee positions so have not had a contested election for several years. One of the reasons for this is that few members have a good understanding of what our committee does, how it does its job, the time commitment required and the rewards of participation.

For the last four years, RRVV has offered members interested in nominating or filling a casual vacancy an opportunity to attend three committee meetings as an observer plus full access to committee documents and emails. Some members who accept this offer conclude that the work of a committee member is not for them. Happily, most express an interest in continued involvement, though not always by joining the committee.

Committee members find the work rewarding, particularly the jobs with a high level of member contact.

Our Association rules allow us to have up to nine committee members:

- President
- Vice President
- Secretary
- Treasurer
- Five ordinary members

The committee is not a board of management. It is very much a working committee and each member has more than one job. In addition to the office bearer jobs, committee members cover the following:

- Member support
- Residents' committee support

- Resident Liaison Officer coordination
- Newsletter content
- Newsletter distribution
- Website content (a contractor does the technical work)
- Government relations
- Industry relations
- Policy formulation
- IT systems support
- IT systems development
- Administration

The committee meets monthly; eight times by teleconference (we use Zoom) and four times a year face to face (either in the city or at our Caulfield office). Nevertheless, we do most of our committee work online and by email. This mode of working does require sound PC skills. Anyone who has used a PC extensively for work should be able to manage our office systems. IT jobs do require more specific skills.

If you are interested in observing the work of the RRVV committee, please get in touch by calling Brian Hedger on 0400 581 044 or emailing [secretary@rrvv.org.au](mailto:secretary@rrvv.org.au)

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## **Subscription Renewal for the 2020-2021 Financial Year**

Annual RRVV memberships for the 2019-2020 financial year expire on 30 June 2020. You will find a renewal form inserted in this newsletter unless your village has signed up for our whole of village subscription plan.

The renewal form explains the payment options on offer, including the credit card payment facility on our website ([www.rrvv.org.au](http://www.rrvv.org.au)) under the tab Join RRVV. Please quote your member number if you have one. If you have already paid your subscription for the 2020-2021 financial year or you have a lifetime membership, please ignore this reminder. Of course, you may use

any of the payment options to donate to RRVV. Donations make up a significant proportion of our income, and we welcome them.

If you are paying by direct deposit to our Bendigo Bank Account, please put your surname and village name in the reference space if you can't quote your member number. Please abbreviate your village name if necessary to fit it within the limited space available.

Subscription renewal time is an excellent time to remind our members of some of the services and support we offer.

Calls and emails to our information line (03) 9015 8402 and [office@rrvv.org.au](mailto:office@rrvv.org.au) were running at a higher rate than last financial year up until January. The restrictions imposed to limit the spread of COVID- 19 reduced calls by around 30% but in the last few weeks levels have been almost back to normal.

Most callers seek simple information but over a third ask for assistance in resolving a dispute. In most cases, we can assist members in dispute with their operator by giving advice on the process, highlighting the relevant clauses in their contract and pointing out useful provisions of the Retirement Villages Act or the Owners Corporations Act. In some cases, we're able to take a more active role. For example, a few members appoint an RRVV committee member to act as their representative at a mediation conference. More and more, we are helping residents take their case to a higher level in the operator's organisation than the village manager, in many cases, with the support of that manager. As always, inadequate legislation and lack of action by Consumer Affairs Victoria (sometimes due to inadequate powers and sometimes inadequate resources) hamper our efforts. Nevertheless, most members who seek our support get a satisfactory result.

Visits to our website ([www.rrvv.org.au](http://www.rrvv.org.au)) vary from month to month but show an increasing trend year on year. There is lots of useful information on the website, and we recommend you check it from time to time.

Email usage is growing, and we now provide regular news updates and notifications of upcoming events to members who register their email address with us. To subscribe to our email service, go to [www.rrvv.org.au](http://www.rrvv.org.au) and click on the lime green button at the bottom of the "Contact Us" page.

In October 2019 RRVV with the assistance of some members living in strata-titled villages persuaded the Government to revise proposed amendments to the Owners Corporations Act that discriminated against residents.

The Government announced the long-awaited review of the Retirement Villages Act on 25 October 2019. This review also includes consideration of the Ombudsman proposal. RRVV lodged a significant submission to the review just before Christmas 2019. In late February 2020, Consumer Affairs Victoria completed its analysis of the contributions of participants in its community forums and the more than 100 written submissions lodged by residents and other interested parties. Unfortunately, since then the COVID-19 virus pandemic disrupted much of the work of the review team. In March RRVV and the Consumer Policy Research Centre presented the results of the excellent research conducted by the University of Melbourne we jointly funded. We believe the research findings will have a favourable influence on the course of the review. RRVV now expects the review will recommence in June 2020.

During the financial year, we were able to persuade some operators to change unfair and objectional practices. Cleaning up objectional operator practices remains an ongoing challenge.

Since early March 2020, RRVV has been working closely with operators and the Retirement Living Council (RLC) on problems arising from the pandemic. This development has only been possible because, over recent years, we have worked to build up relationships with influential operators and both the executive and staff of the RLC.

RRVV looks forward to your continued support.

## **Charges for reinstating and upgrading our units after we leave**

### **Untangling the terminology**

Many retirement village (including strata-titled village) residence contracts define charges we must pay our operator for reinstating our units after we leave. Some contracts also contain clauses on upgrading our units. Very few of us with these contracts took much notice of the reinstatement and upgrade clauses when we signed the contract. RRVV recommends retrieving the contract from where you stored it all those years ago and studying the relevant clauses. We also recommend asking family members to study the clauses along with this article.

Not all contracts use the same terminology. In this article, we use reinstatement to mean putting the unit back the way it was when we moved in. It does not mean making the unit new again or bringing it up to contemporary standards. Reinstatement might include repairing the damage we have done to the unit, fixing appliance faults, servicing those appliances that are working but not maintained as recommended by the manufacturer and a final clean of the unit before putting it on the market. Some contracts give much the same meaning to the terms refurbishment and renovation.

Most contracts require outgoing residents to pay the cost of making good fair wear and tear. If you are the third occupant (for example) of the unit, you might wonder why you have to pay the full cost of replacing a hot water service that has reached the end of its design life. Undoubtedly, your predecessors should be contributing. RRVV believes contract terms that require us to pay for making good fair wear and tear are unfair.

In this article, we use the term upgrade to mean work beyond that required to achieve reinstatement. Some contracts give the term renovation much the same meaning.

## Reinstatement

It is relatively easy to identify damage we have done, and even easier if we have an inspection report from the day when we moved in. Most of us will have scuffed the walls and damaged the carpets (even if just by leaving heavy items of furniture in the one place for several years). We might also have damaged a kitchen benchtop or a cabinet door. Perhaps our dog damaged a screen door.

Some contracts require us to remove additions we have made to the unit (e.g. shelves) and make good any damage their installation or removal caused. This too is a reinstatement cost.

RRVV knows of cases where an operator has charged outgoing residents for maintenance work that is the responsibility of the village or the operator. This is not a reinstatement cost.

Most operators take responsibility for inspecting our unit when we leave. RRVV recommends a joint operator and family inspection. Often, leaving the job solely to the operator leads to disputes later on.

RRVV is not aware of reinstatement clauses requiring the operator to get competitive quotes for work done at our expense or in some other way ensure that we are getting a good deal. A majority of the calls RRVV receives from outgoing residents or their families on reinstatement include an allegation that some contractors have overcharged for the work.

RRVV recommends pressing the operator for:

1. A document giving and justifying the scope of the work proposed
2. A detailed budget backed by three competitive quotes or other evidence of professional competitive procurement

## Upgrading

Prospective residents' wants and tastes change over time. What was a desirable unit twenty years ago might not attract much interest from today's buyers, even after reinstatement.

RRVV believes operators with older villages

should have a strong upgrade program. Nevertheless, RRVV opposes:

1. Upgrading by stealth (i.e. pretending work is reinstatement when it goes beyond any reasonable definition [for example, replacing perfectly functional appliances with new ones with more features])
2. Making the outgoing resident carry the risk of the upgrade not making a profit
3. Recognising the resulting increase in the value of our unit as a capital gain (where the contract provides the parties share the capital gain)
4. Recognising the resulting increase in the value of our unit in the deferred management fee calculation (where the deferred management fee is calculated as a percentage of the resale price)

Operators often recommend, and sometimes insist on, doing upgrade work 'to get the best price for the unit'. The best price does not necessarily mean the best payout figure. The effects of the upgrade cost, capital gain sharing or increased deferred management fee can mean an increase in the sale price delivers a lower payout figure.

Recently RRVV analysed the effects of a typical upgrade on the payout received by the outgoing resident under two different contracts.

Contract 1 provides that the operator and the outgoing resident share the capital gain 50%-50% with the resident's deferred management fee set at 29% of the ingoing amount after eight years. Using recent sale prices at the eight-year point, we calculated that the payout to the resident, if the unit had been reinstated, would have been \$294,300. The actual payout for the upgraded unit was \$279,300. The upgrade reduced the payout by \$15,000.

Contract 2 provides that the outgoing resident receives 100% of the capital gain and pays a deferred management fee of 24% of the resale amount after eight years. Again, using recent sale prices at the eight-year point, we calculated

that the payout on a reinstated unit would have been \$330,7500. The actual payout for the unit as upgraded was \$322,500. The upgrade reduced the payout by \$8,250.

Under both contracts, the reinstated unit delivers a better payout than the reinstated and upgraded unit. By upgrading the unit, the operator has made an additional profit by taking money from the resident. RRVV believes this is a rip-off. There are many different retirement village contracts, and not all of them will deliver a better payout on a reinstated unit than on an upgraded unit. RRVV recommends asking your operator to provide the likely payout figure and calculation details, with and without an upgrade work.

RRVV advocates that operators should calculate the deferred fee, capital gain fee, administration fee and advertising fee on the reinstated value of the unit, not the upgraded value. Some operators do this.

Operators also often recommend or insist on an upgrade to get a quick sale. Whether or not an upgrade will speed up the sale will depend on the market conditions at the time. RRVV believes that the outgoing resident, not the operator, should make the decision.

Most contracts require the outgoing resident to pay for an upgrade and wear the risk of it not making a profit.

RRVV argues that the new resident should pay for an upgrade by paying more for the unit than would have been the case if the operator had only reinstated it. An operator that upgrades a unit beyond what the market will bear and forces the outgoing resident to cover the shortfall is acting unfairly. RRVV has long advocated the Retirement Villages Act should require the operator to wear the risk of an upgrade not making a profit.

RRVV also argues that if the outgoing resident is paying for an upgrade, the operator should get three competitive quotes or provide evidence of professional competitive procurement.

## Pressing the Government to change the law on reinstatements and upgrades.

So far, the Consumer Affairs Victoria team reviewing the Retirement Villages Act has shown little recognition of the need to change the law on reinstatements and upgrades. Please contact your local lower house member and your five upper house members of the Parliament of Victoria to talk through the issues raised in this article.

Note: To access a copy of the calculations behind the figures and conclusions drawn in this article; please phone 0411 462 344 or email [president@rrvv.org.au](mailto:president@rrvv.org.au)

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## From the Beehive

### A personal perspective

To those reading this episode of "From the Beehive" - let's hope things have improved dramatically since I sat down to write it.



There is a buzzing in my head. Is that me talking to myself in my cell in the Beehive? It is! I'll turn on the radio. All the radio bees talk about is "Corona Virus", or sometimes they call it "Covid-19". I wonder why it has two names?

I'll turn on the TV. All the TV bees talk about is "Corona Virus" or "Covid-19". I give up.

The Medical Officer Bees have explained to the Big Bumble Bees that we older bees are more vulnerable to catching this virus than the younger bees. So, to protect ourselves, we have been told not to buzz together as we usually do, not to go shopping for pollen together and not to share our honey together in our retirement beehives.

No wonder I am buzzing to myself – there's no one else to talk to except the worker bees, and

they must stay 1.5 metres away. They have to shout to those bees who are hard of hearing.

What is the world coming to?

Sometimes the radio and television bees talk of the virus causing a “recession”. Is that like a depression”? I remember my parent bees talking about a depression. Worker bees were unemployed. Pollen was very hard to find, and baby bees were hungry.

Mother bees became expert at creating honey from nothing. Sometimes father bees had to fly away to the country searching for work. Families of bees created novel ways of entertaining themselves.

They survived because they helped each other – sharing food, clothes and shelter.

During this pandemic, today’s bees are doing the same. Young bees are buying groceries for older bees; working bees are sharing with unemployed bees, and health-worker bees are risking their lives to care for those who are struggling with the virus. Medical researcher bees are working around the clock to make a vaccine to protect everyone from the infection.

Even so, large numbers of elderly bees are dying from the effects of the virus. It is a sad time for many.

How powerfully this pandemic has affected our ordinary lives. No football (I can’t wait for it to start up again); no tennis, no swimming, no golf or attending horse racing; no Olympics or Tour de France; no going to the movies or the theatre, no travel and no hugs.

No hugs – I really miss hugs – this wing bumping which replaces bee hugs leaves a lot to be desired.

The pandemic has brought the bee world as we know it to a halt, but we will beat it. By working together (1.5 metres apart of course) in our retirement beehives we can beat anything – except maybe climate change – but that’s another story.

What have the queen bee and big bumble bees been doing while we retired bees have been staying at home? Writing lots of boring memos. They try to explain why they have closed our community centre, restaurant, bowling green and swimming pool, and why they want to check the temperature of visiting bees. Despite my misgivings, I accept the restrictions. They certainly make the Beehive a safer place to live.

The queen bee and big bumble bees also recognise that staying at home could send us stir crazy. They check on our welfare regularly. They also provide us with puzzles, games, recipes and other diversions, entertain us with stories from other bee communities and give us an occasional treat.

I sense a change of attitude. Management bees and retired bees now have a common enemy. Together we will defeat the virus, whatever its proper name is. Maybe we will find other things to work on together.

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## **Increase in service fees for financial 2020-2021 financial year**

It’s that time of year again when operators of retirement villages propose service fees (described as maintenance charges in the Retirement Villages Act 1986 (the Act)) for the coming financial year.

An operator may only increase the service fee by more than the Consumer Price Index (CPI), except as provided by section 38(5) of the Retirement Villages Act (the Act), with the approval of the residents of the village or the villages residents’ committee.

Section 38AA of the Act provides the formula for the calculation of the CPI increase by reference to the annual increase in the all groups Consumer Price Index for Melbourne published by the Australian Bureau of Statistics (ABS). You calculate the CPI increase by dividing the sum of the index numbers for each

of the quarters of a financial year by the sum of the index numbers for each of the quarters in the previous financial year.

The Australian Bureau of Statistics does not release the June quarter CPI figures until mid-July. Hence, most operators use the index numbers for the year ending 31 March. Operators do this to calculate the new fees from the beginning of the following financial year. This practice does not comply with the Act. RRVV advocates changing the Act to align it with common practice.

The table below shows the relevant index numbers for the years ending 31 March 2019 and 2020 necessary to calculate the CPI increase where the operator proposes to increase your village’s service fee from 1 July 2020.

Quarter	Melbourne CPI
June 19	115.3
September 19	115.9
December 19	116.9
March 20	117.8
<b>Total 2019-2020</b>	<b>465.9</b>
June 18	113.8
September 18	114.0
December 18	114.6
March 19	114.7
<b>Total 2018-2019</b>	<b>457.1</b>

Source: Australian Bureau of Statistics 6401.0 released 29 April 2020.

The index numbers total for the year to 31 March 2020 (465.9) is 1.93% higher than the corresponding numbers for the year to 31 March 2019 (457.1).

Section 38(5) of the Act does permit operators to increase service fees by more than 1.93% without residents’ approval where that increase is the result of increases in:

a. Rates, taxes or charges in respect of retirement village land or the use of a retirement village land levied under an Act or subordinate instrument; or

b. Salaries or wages paid in accordance with an award made by a Commission, Tribunal, Board or other body under-

- (i) An Act other than this Act: or
- (ii) A Commonwealth Act –

If the salaries or wages are paid to a manager or a person employed in connection with the retirement village.

If you would like a sample calculation demonstrating how Section 38(5) works in conjunction with the CPI increase, please email [treasurer@rrvv.org.au](mailto:treasurer@rrvv.org.au).

Section 38(4) sets out the voting rules for residents approval, at a meeting, of an increase above the threshold established by the CPI increase and section 38(5). Approval requires a majority of the residents attending the meeting to vote for the increase. Therefore, the meeting scrutineers must count the number of residents voting for the increase and the number of residents at the meeting.

### Apology

Each quarter, we despatch around 5,000 printed newsletters. In March we managed to get almost 1,000 newsletters out before the Coronavirus restrictions forced us to close the office and work from home. We had to find another way to get the remainder out. Having different people handle different parts of the process remotely, guided only by a manual, did not work. We made lots of mistakes. We were unable to give RLO’s accurate distribution lists. Most of you did not receive the March newsletter until late May. Some may have missed out altogether.

We let you down. We apologise. We have been working hard to get this newsletter out in June.