



Residents' committee handbook

Foreword

RRVV has prepared this handbook for ordinary residents' committees in lease and license villages.

If your village has a:

- Owners corporation;
- An incorporated association of residents; or
- An incorporated services association,

please contact RRVV for guidelines relevant to your village.

A well-run residents' committee can significantly contribute to creating a village environment in which residents can age well. This handbook aims to give residents' committees information helpful in running their committees and promoting good relationships between committee members, residents, and operators.

Information in this handbook reflects legislative requirements under the *Retirement Village Act 1986*, (the Act), *Retirement Villages (Contractual Arrangements) Regulations 2019 No. 67*, *Retirement Villages (Records and Notices) Regulations 2015 No. 147* and *Retirement Villages (Infringements) Regulations 2018 No. 188* (the Regulations) along with suggestions for how to implement the legislative requirements.

This handbook's guidelines are not legally binding; however, RRVV recommends them to all residents' committees. The handbook also includes reminders and tips to aid residents' committees. Where legislation requires action, we have included the relevant section of the Act or the Regulation. Please note that the handbook does not give legal advice. You should consult a solicitor before taking any action.

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Introduction

The Retirement Villages Act 1986 (the Act), Retirement Villages (Contractual Arrangements) Regulations 2017 No. 67, Retirement Villages (Records and Notices) Regulations 2015 No. 147, Retirement Villages (Infringements) Regulations 2018 No. 188 (the Regulations) describes the rights and statutory obligations of retirement village operations and residents. You can buy the Act and Regulations from:

Information Victoria Ground Floor
505 Little Collins Street
Melbourne 3000
Telephone: 1300 366 356

You may also download the Act and Regulations from:

<https://www.consumer.vic.gov.au/resources-and-tools/legislation/legislation-we-administer>

Section 36 of the Act provides that residents of a retirement village, where there is no owners corporation, may elect a residents' committee. Amendments before the Parliament of Victoria at the time of preparing these guidelines will, if enacted, allow a village with an owners corporation to have a residents' committee.

Establishing a residents' committee

The law

Section 36 also provides:

- The purpose of a residents' committee is to represent the interests of residents
- Each member of a residents' committee holds office for one year from the date of election but is eligible for reappointment
- A member of a residents' committee may at any time be removed from office by a special resolution passed at a general meeting of residents
- The residents' committee procedure is in its discretion
- The residents' committee may form sub-committees and determine their procedure
- The residents' committee may call a meeting of all the residents living in the retirement village

- The residents' committee or a sub-committee formed for the purpose may act as a mediator in any dispute between residents (Note, RRVV recommends against using this power)
- The residents' committee must not act as a mediator in any disputes between residents when the dispute is being dealt with by the manager under Division 3 of Part 6A
- If in respect of a retirement village there is an owners corporation, the owners corporation has the powers of a residents' committee under this section, in addition to its other powers

Section 38(4) allow a residents' committee to veto a proposed increase in the maintenance charge (more commonly known as a service fee) above a threshold set by sections 38AA and 38(4) and (5). RRVV does not recommend using this power as residents voting at a meeting have identical power.

Interpreting the law

Not all subsections of section 36 are crystal clear. RRVV offers the following interpretations.

- Your committee is independent, not subordinate to the operator
- The purpose of your committee is to represent residents; it is not a board of management
- Residents, you have no formal power to direct a committee, but residents dissatisfied with the performance of their current committee do have the option of voting for a new committee each year
- Your operator participates in committee meetings only by invitation and as a guest
- Residents' committees have few formal powers of practical significance. If your committee wants to influence your operator or wants to influence committee members, you have to resort to non-legal bases of power

Why form a residents' committee?

Reasons for the formation of a residents committee may vary from village to village. One village may form a committee to organise social events. In contrast, another village may form a committee to enable residents to have more involvement in forming the village budget. Another committee again might set out to defend residents' rights.

The scope of activities of a residents' committee may change over time. Nevertheless, a residents' committee should aim always to reflect the interests and voices of residents of the village.

A residents' committee must remember its purpose as set out in the Act. It exists to represent residents. Members should not use the committee to pursue personal agendas. A residents

committee should also be aware of differences existing amongst residents of the village. It should consider all residents' views.

The most important thing to decide when contemplating the establishment of a residents' committee is whether residents of the village want a residents' committee. Having a residents' committee is not mandatory.

There are advantages to forming a committee as required by the Act. The Act gives a properly formed committee specific powers. These are limited powers, but there will be times when they are helpful. Nevertheless, the committee's ability to influence the operator rests on its ability to build up power through the force of its collective personality, its knowledge, its integrity and its diligence.

Residents interested in gauging the interest of all residents in forming a residents' committee can:

- Survey residents
- Hold a meeting of all residents
- Publish an article in the village's newsletter and invite responses.

Electing your first residents' committee

If the residents of the retirement village have expressed interest in forming a residents' committee, it is up to the village residents to organise an election. The operator or village manager may aid with the administration of the election but has no decision-making role.

RRVV suggests the following agenda for a general meeting of residents to elect a committee:

1. Appoint a meeting chair
2. Consider and vote on the establishment of a residents' committee
3. If the vote to set up a committee succeeds, determine by a vote how many members will be on the initial committee, the method of selecting officeholders and the method of election (vote at a meeting or ballot)
4. Election of a steering committee to conduct the election if the decision is to go ahead by ballot (call for nominations and hold an election if there are more nominations for positions).

RRVV believes all residents must have the opportunity for involvement in the decision to have a residents' committee and, most notably, the opportunity to elect members. Accordingly, we recommend considering ballots in preference to elections at meetings. Ballots allow more residents to take part because they allow those who are ill or frail to vote. Ballots also supply secret voting.

Establishing residents' committee rules

Section 36(4) of the Act allows a residents committee to decide its procedures. Once elected, the newly formed committee should meet to establish its procedures (or rules).

Residents committee rules

Residents' committee's rules might include:

- Objects of the committee
- Minimum and maximum number of committee members
- Committee positions
- The process of electing officeholders
- Sub-committees of the committee and their rules
- Procedures for committee meetings
- Procedures covering the committee's funds
- The process for changing the rules
- Voting requirements.

A residents' committee should take care its rules do not conflict with section 36 of the Act, which deals specifically with residents' committees, or any other laws. If there is any inconsistency between any Act and a committee rule, the legislation will override the rule.

Please see the model rules for a residents' committee at the end of this handbook (Attachment 1)

The ideal size of a residents' committee

The ideal number of members on a residents' committee will vary from village to village.

Considerations when deciding on the numbers of members on a residents' committee include:

- How many residents live in the village?
- The level of resident interest in joining the committee
- The desired focus of the committee (was there a specific reason for forming the committee, such as organising social functions or working with the operator on village finances)

There is no requirement for members of a sub-committee to be committee members. Nevertheless, it can be useful to have at least one committee member on any sub-committee.

Familiar residents' committee positions

The most common positions in current residents' committees are:

- The chair, who runs meetings and represents the committee at public events
- The deputy chair, who acts as the chair when that person is not available
- The treasurer, who deals with the financial affairs of the committee
- The secretary, who:
 - supports the chair in ensuring the smooth functioning of the committee
 - is responsible for ensuring meetings are effectively organised, minuted, and adequate records and administration, including managing ingoing and outgoing correspondence.

The committee may also have several ordinary committee members. These members may handle specific tasks or projects depending on the needs of the village.

Can a committee member hold more than one office?

Ideally, residents' committee members will only hold one office or position. However, members can hold added offices and positions should the need arise. For example, illness, insufficient nominations to fill all committee positions or specialised skills or knowledge might make it proper for a member to hold more than one position.

The residents' committee's rules should address under what conditions a member can hold more than one position and the process to co-opt another resident to fill a casual vacancy.

Can a rental tenant be on the residents' committee?

Yes. All residents are eligible.

By-laws

By-laws can empower residents.

A retirement village can have by-laws (more commonly known as village rules), but this is not compulsory. If a retirement village has by-laws, the operator must include a copy in the residence document pack provided to residents before signing the contract.

Residents can create, change or revoke by-laws binding on both residents and operators subject to limited restrictions set out in section 37 of the Retirement Villages Act.

Unfortunately, the retirement Villages Act does not require your operator to enforce village by-laws.

By-laws relate to the use, enjoyment, control and management of the retirement village. They usually deal with:

- visitors and guests
- noise
- security
- pets
- garbage disposal
- car parking
- restrictions on the use of services and facilities
- the external appearance of residents' premises
- gardening and landscaping.

Changing retirement village by-laws

You can only create, change or revoke retirement village rules by special resolution.

Retirement village by-laws must follow Commonwealth or Victorian laws - for example, they cannot contravene privacy or anti-discrimination laws.

Your ideal relationship with your operator?

A residents' committee's relationship with the village's operator should reflect, as far as possible, residents' expectations of that relationship.

The Act and most operators' residence contracts position the operator as a landlord and residents as mere tenants. Is a person who has paid a market-based sum for the right to live in the village and pays a regular service fee a mere tenant? RRVV suggests a better relationship service provider and valued customers, but is this ideal?

Residents collectively supply all the capital employed in the village. In a mid-sized village, collectively, residents might have invested 20 million dollars. RRVV believes this financial stake makes residents equal stakeholders in their villages with the owners and operators.

What might the ideal relationship with your village manager be? Many residents tend to relate to their village manager as an authority figure, but is this the foundation of an ideal relationship?

RRVV recommends negotiating the relationship you want with your operator and village manager.

Consultation

The Act does not require an operator to consult with a residents' committee, nor does it require an operator to engage with residents or a residents committee on matters raised by residents. Similarly, the Act does not require residents or a residents' committee to consult operators on matters where residents have decision making authority. It does require an operator to obtain approval of residents or the residents' committee on some issues (e.g., increasing the service fee beyond a defined threshold). Some contracts do require consultation on specific matters.

Neither the Act, Regulations, nor the contracts RRVV has seen defines consultation.

Residents' committee members advise RRVV that operators consult in one of four ways:

- He tells us what he is going to do (Tell)
- He tells us what he is going to do and why it will be of benefit to residents (Sell)
- He presents a proposal and asks for comments but makes the decision (Consult)
- We jointly define the problem and work out a solution (Join)

What do residents understand consultation to mean? Most say 'join.' Most operators resist this mode of consultation.

Residents sometimes complain of sham consultation. For example, they claim their operator goes through the motions of consulting without any intention of heeding what the residents say.

RRVV recommends negotiating a mutually acceptable approach to consultation with your operator and village manager.

Consultation on a village's annual budget

The Act does not require consultation. Nevertheless, most operators consult their residents' committees, finance sub-committees or residents at a general meeting on village budgets and proposed maintenance charges (widely known as service fees).

The Act requires the operator to present the budget (including provisions for long term maintenance) for the new financial year within three months of the end of the old financial year. Some operators like to start the new years' service fee from the beginning of the year. To justify the new service fee, they must prepare a budget for the new financial year well before the end of the current 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 Act, with the approval of the village's residents or the village's residents' committee. Section 38(4) of the Act sets out the approval provisions. Residents at a general meeting may approve such an increase by a majority vote of those attending. Confusingly, a residents committee may also approve such an increase. The Act does not specify what to do when residents oppose the increase, and the committee approves it or vice versa. Most operators accept the view of the residents.

Section 38(5) of the Act does allow operators to increase service fees by more than the CPI 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.

Most operators do put fee increases at, or below, the threshold requiring residents' approval to a vote.

Other operator consultation with a residents' committee

Typical matters include:

- Maintenance issues raised by residents.
- Proposal to alter or improve a building, facility, fixture, or fitting.
- The distribution of information to residents
- Any proposed changes to a service or facility provided at the retirement village are likely to increase costs to residents.
- Any other matters agreed between the committee and the operator.

Committee consultation with residents

To best represent the interest of residents, a committee must engage in ongoing consultation with them so it can supply feedback to the operator on their views, concerns, and problems.

The most effective ways a committee can give information to residents and elicit feedback will vary from village to village. You might consider some of the following:

- Regular general meetings
- Email

- Village newsletter
- Letterbox drops.
- Village notice board.
- Supplying current contact details for the committee
- Inviting residents to attend committee meetings as observers.
- Distributing of resident's committee agendas and minutes.

Representing the village residents means keeping in touch with the residents' views and recognising the differences between them.

Members of a residents' committee may have differing opinions on various issues. The residents' committees' responsibility is to communicate to the operator the views of residents of the village and not the personal opinions of committee members.

Sometimes a resident may raise a problem with a committee member that is outside the mandate of the residents' committee. In these cases, it may be best to refer the resident to the village's dispute resolution process or seek advice from RRVV or a lawyer.

In deciding if the committee can assist a resident with an issue, consider:

- Does this issue fall within the mandate of the committee?
- Is the issue contractual or legislative?
- Does the issue affect all residents, or is it a personal one?

Section 36(7) of the Act allows the residents' committee, or a sub-committee formed for the purpose, to act as a mediator in a dispute between residents. RRVV recommends that residents' committees do not act as mediator. It is far better to refer the matter to an independent skilled mediator.

Working with your operator

A residents' committee and village operator working well together can foster a positive and productive village culture. However, keeping strong and healthy professional relationships requires consistent effort from all parties. Following are some suggestions on how the village manager or operator and the residents' committee may work together to keep a healthy relationship:

- Inviting the village manager to attend residents' committee meetings (or parts of meetings that are relevant)
- Providing the manager with a copy of correspondence such as residents' committee newsletters, minutes, memos etc. to the manager
- A formalised process of communication, e.g., email, coffee meetings
- An agreed process on how to deal with any concerns.

Disputes and conflicts are part of everyday village life. There will always be differing opinions within a village community. The committee should ensure all action taken aims to prevent disputes or aid in their resolution.

When working with an operator, it is good practice to confirm verbal conversations in writing. RRVV recommends when the residents' committee is writing to the operator with a query, it requests a response by a date. Fourteen days is a reasonable time to respond.

Disputes between the operator and the residents' committee?

Operators and committees can usually resolve issues that arise between them quickly and effectively if the parties have set up protocols. The best way to avoid disputes is to deal with problems before they escalate into significant issues. However, if a dispute does occur and the parties cannot resolve it quickly, residents committee members should refer to the village's dispute resolution policy. Sections 38E and 38F of the Act require the village operator to develop and distribute a written dispute resolution policy.

Dispute Settlement Centre of Victoria

The Dispute Settlement Centre of Victoria (DSCV) supplies a mediation service when assistance from an independent facilitator may help in resolving a dispute and restoring the relationship between the parties. This form of resolution has the advantage of not being a forced compromise; therefore, the parties are more inclined to be satisfied with the result and abide by any agreements. Please note that DSCV does not deal with contractual or other legal disputes

Victorian Civil and Administrative Tribunal (VCAT)

The purpose of the Victorian Civil and Administrative Tribunal (VCAT) is to provide a low cost, accessible, efficient Tribunal with a focus on dispute resolution.

Obtaining a binding resolution to a dispute

Three types of disputes arise in retirement villages.

- Disputes between residents and the owner or operator; for example, disputes about fees or maintenance.
- Disputes between residents; for example, disputes about noise or domestic violence.
- Disputes between residents and between those residents and the operator

Currently, the only way you can obtain a binding resolution is to mount a Victorian Civil and Administrative Tribunal (VCAT) or Magistrates Court case.

Disputes between residents and the owner or operator

VCAT has several divisions and lists within each division. Retirement village residents are most likely to use the Owners Corporation List and the Civil Claims List.

Deciding which list is relevant depends on the legal basis of the dispute.

If you occupy your unit under a long-term license or lease in either a leasehold or strata-titled village, VCAT will most likely deal with the dispute in the Civil Claims List.

If you purchased a unit in a strata-titled village, then the Owners Corporation List would most likely deal with your complaints about the owners corporation manager or owners corporation committee. If, however, if the matter is an alleged breach of the Retirement Villages Act, VCAT will most likely deal with your dispute in the Civil Claims List

If you occupy your unit under a periodic tenancy, VCAT will probably deal with the dispute according to the law specified in the tenancy agreement. If the law specified in the agreement is the Residential Tenancies Act, VCAT might deal with your dispute in the Residential Tenancy List.

Civil Claims List

This list deals with "consumer and trader disputes" as this term is defined in the Australian Consumer Law and Fair Trading Act 2012. For retirement village residents, what this means is that the Civil Claims List deals with disputes about the rights and obligations of the parties under residence and management contracts, claims of unfair dealing, such as misleading conduct or misrepresentation, or a breach of the Retirement Villages Act 1986.

Owners Corporation List

This list deals with disputes that arise within owners corporations. The Owners Corporation Act 2006 sets out the functions and powers of the owners corporation, including the financial powers, keeping accounts and auditing, maintenance, and insurance. It also sets out the duties and rights of lot owners, including the care of lots and the use of the common property.

VCAT can deal with disputes that arise under the Owners Corporation Act, the related regulations and owners corporation rules. For example, such disputes could include the operation of the owners corporation, an alleged breach by a lot owner or the functions of the owners corporation manager.

The process

Irrespective of the list the application process is the same. However, there is a different form for each list.

You may complete your application online by providing details about yourself and the other party (person or company), a summary of the dispute and details of what you are claiming. There is usually an application fee that varies depending on the list and the amount claimed.

Once you have lodged your claim with VCAT, the Tribunal may respond in several ways. For example, by ordering:

- A directions hearing. This hearing is for more complex matters where what the case is about is unclear from the application. It enables the Tribunal to give directions to the parties about providing further details (called particulars). The Tribunal will also usually set out a timeframe for providing this information.
- A compulsory conference. Again, this is usually only used in more complex matters and or claims over \$10,000. It is a form of mediation that the Tribunal offers to allow the parties to discuss the issues and resolve them. If the parties reach an agreement, they write it out as a formal contract, which is the end of the matter as far as the Tribunal is concerned. If the parties do not reach an agreement, VCAT will schedule a hearing.
- A hearing. This is the full hearing of the matter. VCAT requires the parties to produce the evidence they rely on and make submissions about the relevant law. The time allowed for hearings can vary from one hour for more straightforward residential tenancy matters to several days for more complex civil and owner's corporation matters.

Preparation

If you have not engaged a lawyer, it is essential to understand the relevant law you will rely on clearly. It may depend on a particular section in the Retirement Villages Act or the Australian Consumer Law in civil claims matters. It will most likely depend on a particular section in the Owners Corporation Act in owners corporation matters.

VCAT has decided on many retirement village applications over the years. One way for a resident to prepare is to access the internet site - www.austlii.edu.au, which lists legislation for every state and lists decisions made by VCAT and the Supreme Court.

The best way to access these cases is by identifying the relevant section in the legislation and then selecting "Note Up References" under the heading "CITED BY", which will list the decisions that VCAT and the Supreme Court have made referred to this section.

Resident - resident disputes

The VCAT Civil Claims List cannot generally deal with disputes between residents who live in a retirement village because there is no consumer and trader dispute, and there is also no contract between the residents.

If you are concerned by noise or disturbance made by another resident, the best way of dealing with your dispute may be to claim against the owner or operator under the terms of the contract if there is an obligation to provide quiet enjoyment.

The Owners Corporation Act allows VCAT to deal with disputes between retirement village lot owners related to rights and obligations under that Act within the Owners Corporations list.

If your dispute relates to domestic violence, you should apply to the Magistrates Court for a personal safety intervention order.

Magistrates Court

You can apply for personal safety intervention orders at a Magistrates Court. This court also has jurisdiction to hear civil claims. So, in theory, a Magistrates Court could hear your claim against an

owner or operator. However, RRVV recommends using VCAT for these disputes as it is usually cheaper, quicker, and less formal.

Note: The Retirement Villages Act uses the term manager rather than operator

If you have any questions about a tribunal application, contact VCAT by telephone on 1300 018 228 Monday to Friday from 9 am to 4:30 pm or go to www.vcat.vic.gov.au for details on how to make an application to the Tribunal, including information about costs.

Meetings

A residents' committee will generally hold two types of meetings:

- Meetings of the residents' committee
- General meetings open to all village residents called by the committee.

Note the annual meeting required by section 33 of the Act is not the residents' committee's responsibility. At a section 33 meeting, the operator reports to residents, its customers and investors.

Meetings of the committee

The committee may call a meeting any time by giving adequate notice through publishing a notice of the meeting. The committee's rules or customs govern how the committee calls and conducts these meetings.

General meetings of residents called by a residents' committee.

Section 36(6) of the Act allows a residents' committee to convene a general meeting of all residents living in the village. You might want to call a general meeting to:

- Consult with residents on a topic of importance within the village.
- Vote on proposals where the Act or operator policy so provides.
- Report to residents on committee activities
- Supply an opportunity for autonomous groups within the village to report to residents and publicise their activities.
- Deal with annual business such as the election of committee members or announce the results of a ballot conducted to elect committee members and the annual review of committee achievements, rules, customs and practices. The committee should not allow combining this meeting with the annual meeting called by the operator under section 33 of the Act.
- To make, revoke or alter a by-law under section 37 of the Act by special resolution.

- Veto a maintenance charge (service fee) above a threshold set by sections 38AA and 38(4) and 38(5).

A residents' committee called general meeting must also follow (where applicable) the residents' committee's rules. In some cases, the Act supplies the voting rules, and in other cases the rules are determined by attendees at the meeting. For more information, see Attachment 2, "Voting at meetings of residents".

A residents' committee may call a meeting at any time. Many villages schedule regular general meetings of residents. One typical pattern is to schedule four general meetings a year, serving as an annual meeting. This annual meeting is for residents to deal with resident initiated business. Do not confuse this meeting with the annual meeting called and conducted by the operator to deliver reports provided by section 33 of the Retirement Villages Act.

Issuing a notice of a meeting

The Act does not stipulate a meeting notice period except for special resolutions (21 days written notice). RRVV recommends 21 days' notice for all general meetings. Items you might put in the notice paper include:

- The time and place of meeting; and
- The business of the meeting (e.g., to consider and vote on a proposal X developed by your committee)

The notice may give the proposed meeting business in summary form (as above) or as the meeting agenda. If the notice paper only summarises the business of the meeting, follow up with a detailed agenda well before the meeting (at least 14 days).

Use plain language and proper font size so residents may easily read and understand the papers. Similarly, include information, so an ordinary person without knowledge of the issue can understand what attendees will consider and vote on at the meeting.

Choose a proper method of distribution for the notice paper and agenda. Not everybody in the village uses email. Most villages publish notices and agendas on notice boards. Still, residents with limited mobility might not be able to get to a notice board within a reasonable time. Placing a copy of the papers in each person's mailbox could be better. Again, not all residents may be able to get to their mailboxes within a reasonable time. Some villages have an internal TV channel. The best solution will vary from village to village.

Forming a meeting agenda

A correct and clear agenda will assist residents in better understanding the purpose and format of the meeting and better ensure it proceeds smoothly.

An agenda for a general meeting of residents may include:

- Approval of previous minutes
- Business arising from the minutes (e.g., open action items)
- Chair's report
- Treasurer's report
- Subcommittee reports
- Proposals to undertake specific actions or projects and the decisions needed.
- Reports from the convenors of independent village subgroups with whole of village coverage (e.g., a social committee)
- Any other business (to provide residents with an opportunity to ask questions and raise issues).

A guide to counting meeting notice days

When counting days:

- Do not count the day of despatch of the notice is; and
- Do count the meeting day.

Proceedings at general meetings of residents

The chair guides the meeting. If the conduct of the meeting meets the legal requirements, the chair may run the meeting in as relaxed or formal style as they believe proper.

Meetings of residents can become unruly. It is the chair's responsibility to control the attendee's behaviour. Nevertheless, the chair must not steer the meeting towards his or her preferred outcome or favour one faction over another. The chair must remain neutral to keep the confidence of the meeting.

Feedback from RRVV members suggests that residents prefer to prepare their thoughts on weighty and contentious issues before attending and voting at a general meeting. So, many villages attach a briefing paper to the notice of the meeting.

Each committee and chair will develop customs and practice over time that can affect the village's culture. Similarly, customs and practices may drift away from the committees' rules. It is wise to regularly review the customs, practices and rules from time to time. For example,

a village might have a standing agenda item for one of its general meetings held during the year on culture, customs, practices and rules.

How many people must attend a general meeting?

The Act does not specify the number of people who must attend to make decisions affecting all residents.

The nature of residents can vary widely from village to village. Younger residents tend to have fewer medical mobility problems than older residents. Therefore, villages with a younger population tend to have a better turnout at general meetings than those with an older population. Villages can set the quorum to reflect the realities of their residents. For example, villages with older residents might set a lower quorum to ensure that a low turnout does not unnecessarily frustrate decision making. For further information on prescribed voting rules, see the RRVV paper "Voting at meetings of residents" in Attachment 2.

Motions put to a general meeting of residents.

A motion is a proposal a committee or resident puts forward before or at the meeting to seek a vote supporting specific action by an identified party.

It is helpful for the chair to repeat the motion aloud and for the secretary or minute taker to write it down verbatim.

The residents' committee's rules may also address the procedure for moving motions at a general meeting.

The procedure for a motion follows the format below:

- One resident moves the motion, and then,
- Another resident seconds the motion.

Some residents may wish to change the wording of the motion, and if so, then:

- One of them moves an amendment to the motion,
- Another seconds the amendment to the motion.

Residents then vote to accept (or reject) the amended motion. If the meeting accepts the amendment, the chairperson reads out the amended motion. The meeting then votes on the replacement motion.

What is a resolution?

A resolution is the result of a motion (or amended motion) put before and approved by the meeting attendees.

There are two main types of resolutions:

- 'ordinary' resolutions (often simply called a resolution), and
- special resolutions

The requirements under the Act for passing 'ordinary' and special resolutions are different. For further detail, see Attachment 2, Voting at Elections and Meetings of Residents.

Voting at a general meeting convened by a residents' committee

The Act does not give rules for voting at a meeting of all residents convened by a residents' committee other than for special resolutions.

Absentee Voting

The Act does not supply rules for absentee voting for residents who cannot attend a meeting to cast a vote. It is up to the committee or the residents of the meeting to set the rules.

RRVV recommends allowing residents who cannot attend a meeting to appoint a proxy to vote on their behalf.

If residents have formalised the motions at an earlier meeting, a resident may direct their proxy on how to vote.

If residents have not formalised the motions before the meeting, a resident cannot formally direct their proxy on how to vote. Nevertheless, there is room for setting some guidelines.

The proxy votes along with everyone else. A common practice is to issue proxy voters with voting paddles or cards. The proxy votes yes or no with the paddles at the appropriate time. The scrutineers count the hands and the paddles.

The scrutineers for the meeting will almost certainly want to know who holds what proxy authorisations before the meeting. RRVV recommends setting the time for lodging proxies at least 2 hours before the meeting start time.

A notice about a meeting at which residents will vote on a motion could include information for residents who cannot attend and wish to appoint a proxy. For example, the notice might

advise the residents' committee secretary to forward a proxy form. For further information on proxy voting, please see Attachment 2.

Special resolutions at a general meeting called by a residents' committee.

The Act at section 3 defines a special resolution as a resolution which –

- (a) Is passed at a meeting of which at least 21 days written notice specifying the intention to propose the resolution as a special resolution has been given to all residents; and
- (b) Is passed at a meeting held in accordance with paragraph (a) by a majority of not less than three quarters of the residents living at the retirement village and voting at that meeting.

For discussions on the motions that require a special resolution, please see the "Voting at elections and meetings of residents" in Attachment 2.

Voting methods

There are various ways of voting at a general meeting. The most common methods are voting by a show of hands, card or paddle, or by a poll (a vote in writing) conducted, submitted, and counted at the meeting.

- Voting by card or paddle– This is useful when voting is one vote per residence. Each residence is given a voting card or paddle at the meeting. When it is time to vote, a resident can use the voting card or paddle for their residence to vote for or against the motion. This method ensures that only residents who are eligible to do so cast a vote.
- Voting by show of hands, card or paddle – Voting by show of hands, card or paddle is the simplest method but can be difficult to administer if many people are voting at the meeting. The chair may ask for help (usually from the secretary, a committee member or another independent resident) to count the votes. This help will help ensure only eligible residents vote.
- Voting by the room's division into 'for', 'against' and 'abstain' groups. This method has the advantages of being exact and straightforward to administer, especially when the Act provides that a motion succeeds if most of the residents attend. When considering this choice, the chairperson should consider if all attendees are eligible to vote and if any residents have mobility concerns.
- Voting by ballot. The advantages of ballot voting include:
 - more of the residents entitled to vote have an opportunity to do so
 - it allows absentee voting
 - voting is private

It is essential to be open to other methods should residents raise reasonable concerns.

Interpreting a tied vote?

The modern view is that a tied vote shows the meeting rejected the motion because a majority did not vote for it. Nevertheless, some people believe that the chair of the meeting should have a casting vote. This belief flies in the face of our current understanding of democratic voting, which holds that each of us is equal.

It may be that with further discussion after a tied vote, the meeting could develop and vote on an amended motion.

It is worthwhile checking that your voting rules deal effectively with a tied vote and amending them if they do not.

How to run an effective meeting

Good meetings generally come from preparation and communication. Below is a list of considerations that might aid in planning and holding committee and general meetings.

- Set dates and times for meetings well in advance
- Send out reminders for meetings
- Send out an agenda and supporting documents
- Ensure there is enough time to discuss agenda items before asking the attendees to vote
- Choose a convenient and accessible location to meet
- Start on time
- Introduce new members.
- Follow the agenda and focus on the discussion
- Finish on time

Preparing and keeping minutes

Preparing minutes

The Act does not prescribe a format for committee or general meeting minutes. So, the presentation and format of minutes will vary from village to village. RRVV recommends the committee:

- Cause the accurate keeping of minutes of the proceedings at a residents' committee meeting and their publication within ten business days after each meeting

- Make the minutes readily available for inspection by residents (distribute by email, table in the library or post on village notice boards)
- Ensure that the minutes do not show personal information about residents
- Ensure the minutes are easy to read. RRVV recommends a font size of 12 points or more.

It is equally important to keep records of minutes of general meetings of residents called by the residents' committee.

Below is a helpful list of possible inclusions when preparing the minutes:

- Name of residents' committee and heading - e.g., residents' committee meeting, general meeting etc.
- Date, place and time
- Name of the chair
- Names of members present (committees only), and other people present such as observers
- Names of people who have sent apologies for not attending
- Confirmation of the previous meeting's minutes
- Record of motions, resolutions and amendments
- Names of the people who moved and seconded motions
- Short summaries of the debates on motions
- Method of voting on motions etc. (for example, a show of hands, polls) and the numbers of votes for, against and abstaining
- Results of voting (for example, passed or failed)
- Titles and any other relevant details of documents or reports tabled
- (If relevant) cross-reference to previous minutes or policies of the village
- Details of the next meeting
- Closing time
- List of the action items arising from the minutes and name of the person responsible for each.

Keeping accurate minutes

Minutes do not need to include a word-for-word account of what members discussed at a meeting; however, they should include a summary of any discussions.

The minutes should be factual and only supply information about what happened at the meeting. The minute secretary must not editorialise.

The minutes should record the motion, the proposer and seconder and the result. Committee meeting minutes should record the vote by each member so residents can consider voting records when members present for re-election.

The minutes should record follow up actions arising from the meeting, who will carry out the action and the timeframe.

The committee should provide residents with information about how to supply feedback on the minutes.

Minutes and reports from sub-committees form part of the minutes of the committee.

Drafting minutes of difficult meetings

It is inevitable that within a retirement village community, there will be differing opinions and perspectives. Sometimes a meeting will become heated, and the participants may resort to personal attacks, walk-outs or inappropriate remarks. Even under these conditions, the minutes should be correct. Nevertheless, the minute secretary should take care not to inflame the situation by using provocative language.

Disclosure of personal information

A residents' committee must also ensure that its minutes do not show residents' personal information. This issue might arise if a resident has raised a personal concern with the committee.

In addition to these requirements, when drafting and reviewing minutes, committee members should be aware of the Privacy Act 1988.

This legislation has 13 Australian Privacy Principles which impose specific obligations regarding the use of private information. Sometimes a residents' committee receives personal information in the course of its duties. The minutes may refer to the matter in a general manner but without the inclusion or disclosure of personal information.

If you have any questions about the disclosure of personal information, please contact the Office of the Australian Information Commissioner by telephone on 1300 363 992 or by email at enquiries@oaic.gov.au

What if someone challenges the minutes?

Where residents do not feel that the minutes accurately reflect the proceedings of the meeting, they should first approach the residents' committee with their concerns.

If the concerned residents are not satisfied with the committee's response, they should raise the issue at the next general meeting. It is standard practice to invite discussion of the minutes before voting on their acceptance. If the committee does not acknowledge an error, then it is open to the concerned residents to propose and second a motion to amend the minutes.

Ensuring minutes are accessible

It can be helpful to make the minutes available in different ways to ensure they are accessible to all residents. The following are some suggestions about how a committee might display and distribute its minutes:

- Community centre
- Notice boards
- Village library
- The front desk
- With the village manager
- Distributed electronically.

Storing minutes

Villages should keep records of the minutes of residents' committee and general meetings committee for use in any legal proceedings that might arise. RRVV recommends keeping minutes for seven years. If the residents' committee disbands, the last committee should ask the operator to keep the minutes.

Wherever a residents' committee decides to keep its minutes, it must clearly communicate the location to all residents.

It may not be convenient to make the minutes for the full seven years available in a public location, and you may consider only displaying the most recent minutes and providing information about how residents may access past minutes. Villages should also keep minutes and reports from sub-committees as above.

Disputes between committee members and between the committee and residents?

On occasions, a committee may find it is having difficulty communicating with other parties, including individual residents or the operator. Difficulties may also arise between committee members.

It is best to discuss any issues as soon as they arise – merely talking about a problem can help to resolve it. Attempting to talk an issue through can also aid the parties to maintain a working relationship.

In these types of circumstances, the following tips can be helpful:

- Be objective. Objective language while communicating with people aids in getting the message across. Replacing reactive and vague statements with clear and precise language can help get a message across quickly and reduce disputes.
- Use examples. Are there other ways to prove your point?
- Be correct – Ensure your statements are factual, accurate and on topic. Be careful not to exaggerate.
- Consider the form of your communication – Consider what the best method of communicating with this person is. Would a letter, a phone call, a meeting or a quick catch up be more efficient? Could an email be confusing or misinterpreted in any way?
- Learn to listen – Active listening has many benefits. It provides the listener with time to consider a point. A technique a resident can use to resolve a problematic discussion is to make a statement using the following formula:
 - Here is the situation as I see it
 - Here is how I feel about it
 - Here is my acknowledgement of how you feel about it
 - Here is what I think will work for all of us.

The above statements can help resolve a problematic discussion by acknowledging each other's feelings or thoughts and suggesting a reasonable compromise. This way, the resident's approach is assertive without appearing aggressive to the other party.

If a discussion cannot resolve an issue, then the parties should follow the village's dispute resolution policy.

Elements of an Effective Residents' Committee

The following are recommendations to help ensure that your residents' committee functions effectively.

1. Have confidence in other committee members

Having confidence in other committee members will enable the sharing of work equally between all. This approach leads to an informed and confident working group who can tackle issues as a whole.

2. Understand the role of the committee (i.e. to represent the interests of the residents of the village) and its functions.

The functions of a residents' committee are to

- a. consult widely with residents to learn their needs wants,
- b. to advocate to the operator of the retirement village on matters of interest to residents and
- c. to advise the operator as requested

A residents' committee should keep itself informed about the matters on which an operator must consult with it under the Act and the residence contract.

3. Delegate work to members of the committee and ask for help where needed.

Delegating work to others allows all members to contribute. It is also good practice for members to gain experience of various roles within the committee in case of a member's sudden illness or an extended holiday.

4. Plan and run effective and efficient meetings

A well-run meeting reflects a committee that is clear in its goals and has balanced the skills, interests and experiences of its members with the needs and requirements of the residents' committee.

5. Maintain a healthy working relationship with the operator, residents and other stakeholders

The committee should make concerted and constant effort to keep ongoing working relationships with other parties. A stable relationship will help the committee run smoothly and aid in developing trusted respect between residents, the operator and other staff members.

6. Appreciate and celebrate other contributions, and say thanks

Committee members are unpaid volunteers. It is important to recognise individuals or groups for their contribution towards helping others, no matter how small their contribution may be. This recognition aids in strengthening bonds with the village and encourages other residents to contribute towards a healthy, happy and respectful community.

What happens when a residents' committee disbands?

There may be a time when residents choose not to continue with a residents' committee.

The main reason to disband is that the committee concludes it does not have enough members to function effectively. In some villages, a general meeting of residents may vote to disband the committee. Unfortunately, the Act does not require the committee to comply.

A disbanding committee has some common sense duties to perform before ceasing to function:

1. Informing the residents of the village of the decision to disband and the reasons
2. Handing the records of the committee (e.g. the minutes) to the operator for archival purposes.

Attachment 1 - Model Residents' Committee Rules

IMPORTANT INFORMATION

The *Retirement Villages Act 1986 section 36* allows the residents of a retirement village to elect a residents' committee. Residents' committees are free to set their procedures provided they are consistent with the law. The following model rules apply to a village that elects committee members by a ballot conducted during the last month of the committee year and elects office holders internally. You might adopt the rules without change or modify them to suit your village's needs.

If in your village, residents rather than the committee elect officeholders, please contact RRVV for a set of model rules adapted to your circumstances.

Please note:

- Rules adopted by one committee do not automatically become the rules of the next committee
- The committee can change the rules at any time without notice. Nevertheless, residents might construe this as breaking an agreement.

Part 1 – Preliminary

Definitions

In these rules:

- a. Chair means the resident elected as chairperson of the residents' committee
- b. Deputy chair means the person elected as deputy chairperson of the residents' committee or if no person holds the office, the secretary
- c. Committee means the residents' committee elected for the current 12 months
- d. Resident means a person as defined in section 3 of the Act
- e. Returning officer means a resident (who is not a member of the residents' committee and is not standing for election to the residents' committee) elected by residents to conduct committee elections
- f. Secretary means the resident elected as secretary of the residents' committee or if no person holds that office, the chair of the residents' committee.
- g. The Act means the Retirement Villages Act 1986
- h. The Regulations means Retirement Villages (Contractual Arrangements) Regulations 2019 No. 67, Retirement Villages (Records and Notices) Regulations 2015 No. 147 and Retirement Villages (Infringements) Regulations 2018 No. 188

- i. Treasurer means the resident elected as treasurer of the residents' committee or if no person holds that office, the chair of the residents' committee

Name

The committee's name is: 'The [insert name of the village] Residents' Committee' hereafter referred to in these rules as 'the committee'.

Function

Section 36 of the Act provides the function of the residents' committee is to represent the interest of the residents of the village.

Objects

The general objectives of the committee are to:

- a. Advance and protect the interests of all residents of the village;
- b. Fearlessly advocate on behalf of residents;
- c. Call general meetings of all residents to engage residents in the decision making of the village;
- d. Communicate openly with residents and make all information known to the committee available to residents on request, subject only to minimal exceptions;
- e. Facilitate communications between residents and the operator;
- f. Help in dispute prevention by raising concerns with the operator; and
- g. Welcome new residents into the village.

Part 2 – Membership

Residents' Committee members

The Residents' Committee consists of the following:

- a. Chair
- b. Deputy chair
- c. Secretary
- d. Treasurer
- e. [insert number] ordinary committee members.
- f. The following sub-committees [remove or add as appropriate]:
 - i. Finance sub-committee – to consider proposed variations in recurrent charges, proposed annual budgets, examine quarterly accounts and other matters relating to financial management;
 - ii. Activities sub-committee – to arrange activities, social functions and outings for interested residents;

- iii. Serviced apartments sub-committee – to consider issues specific to those residents living in serviced apartments within the village;
- iv. Other (specify).....
- g. The committee needs a minimum of [insert number] members to form. There should be a maximum of [insert number] committee members.

Functions of office bearers

- a. The functions of the chair are to
 - i. Chair meetings of the residents' committee and general meetings of residents;
 - ii. Rule on procedural matters raised at committee meetings and residents meetings, or queries as to the meaning of these rules;
 - iii. Represent the committee at meetings with RRVV and other villages;
 - iv. Seek clarification, where necessary, from the Consumer Affairs Victoria about the rights and obligations of residents under the Act and Regulations.

- b. The functions of the deputy chair are to:
 - i. Perform the functions of the chair when the permanent chair is unavailable
 - ii. Assist the chair as and when required.

- c. The functions of the secretary are to:
 - i. Keep a register of committee office-bearers;
 - ii. Record decisions made at meetings of the residents' committee or general meetings of residents;
 - iii. Notify committee members of the date, time and venue for meetings of the committee, and all residents for any general meetings;
 - iv. Keep the notice boards of the village updated with relevant committee information;
 - v. Send and receive correspondence on behalf of the committee and present copies at the next committee meeting;
 - vi. Liaise with the operator regarding the provision of administrative assistance to the committee;
 - vii. Aid with welcoming new residents to the village; and
 - viii. Update these rules when amended by the committee

- d. The functions of the treasurer are to:
 - i. Collected and receipt money due to the committee and ensure the committee authorises payments to others;
 - ii. Make payments by petty cash of or by cheque signed in conjunction with such other signatory or signatories as required by the committee; and

- iii. Report at each committee and residents' meeting on receipts and payments made since the previous report and on unpaid accounts and monies outstanding.

Qualifications for membership

Only a resident of the village is eligible to become a member of the committee or sub-committee or to nominate a resident for membership.

Term of membership

Each member of the committee, or a sub-committee, serves for a period of one year but is eligible to renominate.

Note that residents may, by special resolution, remove a member of the committee from office.

Nominations for officeholders and ordinary members

- a. All committee positions become vacant one year after the last committee election
- b. At a general meeting of residents held around three months before the end of the committee's term, the chair should conduct an election of an independent returning officer to oversee the ballot for the new committee.
- c. A resident who is not a committee member and who agrees not to nominate for the new committee can be the returning officer. The village manager can be the returning officer but must name herself or himself as the returning officer, not as the village manager, when performing the role
- d. At least seven weeks before the end of the committee's term, the returning officer should call for nominations for the new committee
- e. Nominations must reach the returning officer within 21 days of the call

Election of the new committee members

- a. The returning officer should arrange for the chair to schedule a general meeting of residents on the latest practical date following the end of the current committee's term if there is not one already scheduled
- b. If there are more nominations than vacancies, the returning officer should begin planning for a ballot or otherwise announce the unopposed election of the nominees the scheduled general meeting.
- c. In the case of a contested election, the returning officer should cause the distribution of a ballot paper to each resident of the village at least 30 days before the end of the committee's term
- d. To have their vote counted, residents must return their ballots to the ballot box within 21 days of the release of the ballot paper

- e. Residents may cast votes with a tick, or cross, or number but each voting paper must not have more votes than the number of positions vacant.
- f. The returning officer has the power to rule votes invalid if a vote cannot be reasonably determined.
- g. The returning officer must, in the presence of at least two scrutineers, open the ballot box and count the votes as soon as possible after the close of voting
- h. The nominees receiving the greatest number of votes gain election to the committee

Announcement of election results

- a. The returning officer must announce the names of successful candidates at the next meeting
- b. The returning officer must place a notice of election results on one or more village notice boards within seven days of the election.

Election of office-bearers

At the first meeting committee of the new committee, the returning officer must:

- a. Call for nominations for each position. Committee members may nominate for more than one position.
- a. Conduct the election of office-bearers in the following order:
 - i. Chair
 - ii. Deputy chair
 - iii. Secretary
 - iv. Treasurer
 - v. Any other office-bearers.

The returning officer must keep the voting papers for ten business days.

12. Casual vacancies

- a. A casual vacancy arises when:
 - i. A member of the committee ceases to be a resident during their term of appointment; or
 - ii. A member of the committee resigns by notice in writing to the secretary.
- b. A committee must fill an office-bearer casual vacancy by election among the other members of the committee. The committee may decide whether or not to fill vacancies of ordinary committee members.
- c. The committee may appoint a resident who is not a member of the committee to fill a casual vacancy of an ordinary committee member.

Part 3 – Sub-Committees

13. Formation of sub-committees

- a. The residents' committee may decide to appoint a sub-committee at its discretion
- b. At least one committee member must be on a sub-committee, and the committee may decide which committee member will be on a sub-committee.
- c. The committee may appoint one or more residents who are not a committee member to aid a sub-committee.

Operation of sub-committees

- a. The committee will decide how often a sub-committee will meet.
- b. A sub-committee may select their leadership.
- c. If requested by the committee, a sub-committee must supply a report on its activities to the committee.

All sub-committees are accountable to and report to the committee and must not incur debts, enter contracts or deal with the operator directly without the prior approval of the committee.

Part 4 – Conduct of meetings

Committee meetings

- a. The committee meets [insert number] times in the year at a place, date and time of its choosing.
- b. The chair may convene more meetings of the committee by giving reasonable notice.
- c. The chair presides at all meetings of the committee when present. If the chair is absent from, the deputy chair chairs the meeting.
- d. Committee members may give written agenda items to the secretary.
- e. The secretary must give notice of a meeting and the agenda to each committee member at least 72 hours before each meeting.
- f. Once a meeting has completed the agenda, committee members may raise items of general business, time allowing.
- g. The minimum number of committee members required to be present to constitute a quorum is 50% of the members of the committee plus one.
- h. Decision making is by a majority vote.
- i. Each member present at the meeting has one vote unless holding another committee member's proxy
- j. The committee must keep correct minutes of the committee meetings.
- k. Within ten business days of the committee meeting the secretary must;
 - i. Make minutes of the meetings freely available for inspection by residents
 - ii. Supply a copy of the minutes to the village operator.
- l. The minutes of committee meetings must not show personal information regarding residents.

- m. The committee must keep a record of the minutes of committee meetings for seven years.
- n. If the committee disbands, it must deliver the records of the minutes to the operator for safekeeping.

General meetings of residents

- a. The committee may schedule several general meetings of residents during the year (one of which should be an annual meeting) and other meetings to deal with urgent issues as needed.
- b. Residents are to give written requests for agenda items to the secretary for items they want on the agenda of a general meeting.
- c. The committee must give written notice of a meeting of residents to each resident at least 21 business days before the meeting. The notice must include:
 - i. The time and place of the meeting
 - ii. The decisions required of the meeting.
- d. A notice for the annual meeting must include a statement of accounts showing the committee's income and expenditure in respect of the previous financial year signed by a person who:
 - i. Is not a person who was a residents' committee member in the financial year to which the accounts relate, and;
 - ii. Has verified the accuracy of the accounts.
- e. After the meeting has dealt with all the matters listed on the notice paper, residents may raise items of general business.
- f. Residents are free not to attend or vote at meetings of residents.
- g. The committee must produce correct minutes of the meeting and make them available in a location easily accessible to residents within ten business days of the meeting.

Attachment 2 summarises RRVV's interpretation of the voting procedures set out in the Act

Part 5 – General

Use of funds

- a. The committee may, on behalf of the residents, arrange activities of a fundraising nature.
- b. The committee must not spend money more than [\$ insert amount] on any item before seeking approval of residents at a general meeting.
- a. Other than for a small amount of petty cash the committee must hold all its funds in the authorised bank account of the committee
- b. The committee must only use committee funds for the promotion of the objectives of the committee or other purposes approved by residents at a general meeting.

- c. Members of the committee are volunteers and must not accept any reward, goods, or benefits other than reimbursement for expenses incurred with the approval of the committee.
- d. The committee must report to residents quarterly on cash received, and cash expended broken down by categories

Confidentiality

- a. The committee shall not divulge any information provided to it by residents unless it has the consent of those residents.

Changes to these rules

- a. Only residents by majority vote at a general meeting may enact new rules, or amend or rescind these rules (note this requires the consent of the committee),
- b. These rules are subject to provisions of the Retirement Villages Act 1986

The village adopted these [or last amended}] on [insert date]

Attachment 2 - Voting at elections and meetings of residents

Frequently asked questions

There are three questions frequently asked of RRVV on voting rights at meetings of residents:

- a. When is voting 'one-residence-one-vote', when is voting 'one-resident-one vote', and when may residents elect to use one or the other?
- b. At what meetings may I lodge a proxy vote?
- c. What are the rules for deciding if a meeting has passed a resolution?

The answers depend on the situation and the resolutions of the residents of the village.

General meetings of residents

Section 36(6) of the Retirement Villages Act provides that the residents' committee may call a meeting of all the residents living at the retirement village. The Act is silent on voting at these meetings other than for special resolutions. It is reasonable to assume that residents may elect to use either one-residence-one-vote or one-resident-one-vote for ordinary resolutions. Each resident has a vote on special resolutions considered outside of a section 33 annual meeting. Section 36A of the Act does not give residents the right to a proxy vote at these meetings. Nevertheless, it is open to the resident body to pass a resolution giving residents the right to appoint proxies for the meeting.

Except in the case of a special resolution, a residents' meeting may decide on the majority required for an ordinary resolution (i.e. a majority of those voting, a majority of those attending or a majority of all residents).

Section 3 of the Act provides that a special resolution must have the support of a majority of not less than three-quarters of the residents actually living in the village at the time and voting at a meeting properly convened for the purpose.

Electing a residents' committee

Section 36 of the Act provides that in the case of a retirement village where there is no owners corporation, the residents may elect a residents' committee, and may remove a committee member by special resolution of residents. The best advice available to RRVV suggests voting to elect a residents' committee is one-resident-one-vote. Other than for the election of a residents' committee and the requirement that a special resolution must have the support of at least 75% of those residents voting, voting rules and procedures are in the discretion village residents.

Voting at residents' committee meetings

Section 36(4) of the Act provides that the residents' committee procedure (including the procedure of an owners corporation committee when sitting as a residents' committee) is in its discretion. So, it can determine committee voting rules except that it is bound by section 36A to accept proxy votes.

Making, changing, and revoking by-laws

Section 37 of the Act requires that a by-law does not take effect unless or until approved by a special resolution of the residents living in the village. The voting rules of the meeting type at which the proposer of the resolution presents the special resolution apply. For example, for a special resolution presented at section 33 annual meeting, voting is one-vote per residence. At other meetings, it is one vote per resident.

Disclaimer

1. This handbook does not contain legal advice. It is a lay summary of the main provisions of the relevant Acts. For the full detail, please see the Acts. Please consult a solicitor before taking any action.
2. RRVV expects the government to pass the proposed 2019 amendments to the Owners Corporations Act 2006 towards the end of 2020. The proposed amendments allow a strata-titled village to have a residents' committee. This handbook does not cover residents' committees of strata-titled villages. You can find the amendments as currently proposed at the *Public consultations and reviews section* of the Consumer Affairs Victoria website