

4. Retirement villages

A retirement village is a community of seniors living in individual premises that share common facilities and amenities.

Retirement villages provide aged housing for people 55 and over and their spouse or partner. The majority of residents tend to be retired or no longer working full time. Retirement villages are managed and administered by a village operator. Some are run as commercial businesses and some are run by not-for-profit organisations.

There can be confusion about the difference between village complexes that are classified as retirement villages and those classified as residential parks. In terms of appearance and services, the two may be very similar. The main differences relate to the type of ownership and occupancy arrangements, the permanency of tenure and the protections provided to residents. In this guide, we refer to retirement villages as complexes that come under the *Retirement Villages Act 1992*.

Retirement villages may not necessarily use the words 'retirement' or 'village' in their name. For example, a complex may be called 'Bottlebrush Gardens' or 'Grevillea Lifestyle Estate', but still be classified as a retirement village. If you are not sure if a complex you are considering comes under the *Retirement Villages Act 1992*, ask the village operator or check with Landgate or Consumer Protection.

Retirement village living usually involves a significant financial commitment. It is a lifestyle decision. You may face substantial costs when you leave a village. It is important to remember that, like any financial transaction, the 'buyer beware' principle applies. Refuse to be hassled or hurried into entering a contract.

Accommodation

The style of buildings that make up retirement villages range from units and villas to townhouses and freestanding homes. Accommodation can include independent living units, serviced apartments and hostel accommodation.

The accommodation in a retirement village is designed for seniors and may include additional fixtures and fittings, such as handrails, emergency call buttons and intercom systems.

Retirement villages should not be confused with residential aged-care. Retirement villages cater mainly for people who are able to live independently. Although some villages also have aged care facilities within the complex, these facilities are regulated by Commonwealth laws.

If you are an existing independent village resident, you don't automatically qualify to move to aged care facilities at the same site. Eligibility will be determined by Aged Care Assessment Teams and placements within the same complex cannot be guaranteed by the village operator.

Common areas, facilities and services

The facilities of retirement villages vary greatly. Some retirement villages offer amenities like communal rooms, dining rooms, swimming pools and bowling greens, whereas others simply provide accommodation.

Apart from management services, some villages provide additional services. These might include arranging activities and excursions, transport, shopping trips and emergency call monitoring. Some villages can arrange personal services for residents on a user-pays basis, such as meals, cleaning, laundry and personal care (e.g. assistance with dressing or bathing).

Ownership and occupancy

Different ownership and occupancy rights exist in retirement villages in Western Australia, depending upon the contract signed between the resident and the village operator prior to entry.

Some contracts are in the form of a licence or lease giving a right to occupy, others allow the resident to purchase the premises outright as a strata title unit or acquire ownership through a 'purple title' arrangement, which involves the purchase of an undivided share of the village as a co-owner. The various legal forms include:

- Freehold title, this can be:
 - strata title – where the resident purchases ownership of a defined portion of land or building; or
 - purple title – where the resident acquires an undivided interest in the whole of the retirement village.
- Lease/Licence – where a resident enters into a contract that gives the resident a long term right to occupy the premises. The lease/licence may/or may not be registered on the title.
- Other forms, including shareholder and company title.

Some villages offer rental as well as purchase and lease options and some offer rents that are capped at a percentage of income. This allows people on low incomes with few assets to choose retirement village living. If you rent, you may be eligible for Commonwealth Rent Assistance. Rental contracts in a Retirement Village are not subject to the *Residential Tenancies Act*.

Rights and responsibilities

As a resident of a retirement village, you have certain rights under the *Retirement Villages Act 1992*. A Code of Practice also applies. The Code is law and covers the provision of information, as well as the promotion, sale and operation of villages. Operators must comply with the Code.

Most villages also have their own day-to-day rules known as residence rules. These rules are not law, however, your residence contract may require that you abide by these rules.

What costs are involved?

In choosing to live in a retirement village, you may be required to pay:

- an initial entry price
- ongoing regular charges and other expenses
- a departure fee

Entry price

Before entering a village, prospective residents are usually required to make a payment known as a 'premium'. This is generally a one-off, up-front payment and, depending on the particular legal structure, can range from a nominal amount to the total cost of buying the premises.

Recurrent charges

Recurrent charges are ongoing (usually monthly) charges that you pay on a regular basis while living in the village. Recurrent charges generally cover operating costs and services that are provided for the benefit of all residents. These might include village administration, maintenance of the property and grounds, amenities and resident services.

Each village has its own terms for fees and charges. Depending on the type of legal structure, recurrent charges might also include rent or body corporate fees. Recurrent fees are not regulated and may increase whilst you live in the village.

On top of recurrent charges, you may have to pay levies, which can include a component for capital maintenance or replacement. These levies may be paid into a sinking or reserve fund.

Departure fees

Many retirement villages have fees that are payable when you leave the village. These fees are known as exit fees, deferred facilities fees, deferred management fees or deferred payment. The amount you pay often depends upon how long you have been in the village, and will be determined by the contract you entered into with the operator.

These fees can be high so it is important that you find out upfront how much you will be required to pay if you leave.

Be aware – you may have to continue to pay ongoing charges when you leave the village until someone else takes over your lease/licence or buys your unit.

Exit entitlements

This is the amount the village operator must pay or credit you if you want to move out of the village. It is important to find out at what point you are eligible to receive this money as you may need it if you have to move to a higher level of care. Your right to an exit entitlement may depend upon someone else first buying or leasing your unit, which could involve a period of time.

What about my partner?

Make sure that both you and your partner's name is on any title, lease or licence. Otherwise he or she may have to move out if you die or need to move to aged care.

Consider village rules around new partners. Check whether the rules allow for a new partner to live with you on a temporary or ongoing basis.

Things to consider

There are pros and cons to living in a retirement village just as there are with any form of housing. It is important that you fully understand what you are agreeing to and what the legal and financial implications are for you and your partner of entering, remaining in and leaving a village. You need to consider current and future accommodation needs carefully.

The move might involve a significant change to your lifestyle. Community living has many benefits, but it also involves some trade-offs.

The best way to find out whether a retirement village is right for you, is to visit the village as many times as you need to in order to satisfy yourself that it is what you want. Talk to village management and current residents, particularly members of any residents' committee, and carefully observe daily life in the village.

Retirement village checklist

- What types of accommodation and amenities are offered?
- What are my ownership and occupancy rights?
- What are the entry, ongoing and departure costs?
- What are the rules about pets, visitors and car parking?
- Will I have my own garden? Will I have sufficient privacy?
- Is there space for a caravan or boat?
- Is the village close enough for family and friends to visit?
- Is the village close to facilities that I use e.g. public transport, doctors, shops, entertainment, libraries or churches?
- Are meals available? Where, how often and at what cost?
- Is there a common dining room? Can I bring my own meals to eat there? Can I invite guests?
- What happens to my partner if I move to aged care?
- What happens if I re-marry or re-partner?
- Is there a functioning residents' committee?
- What facilities are available if I become sick?
- Will the village meet my needs in the future if I require additional assistance?
- What are the financial implications if I want to leave?
- Is there provision for a reserve/sinking fund to ensure the village is properly maintained over the long term?

4. Retirement villages

What if the village operator sells?

Retirement village residents cannot be evicted if a retirement village changes hands. New village owners are still bound by the contract that you entered into with the previous village owner.

Your rights if the village operator becomes insolvent will vary depending on the contract you have entered into. While there are some statutory protections, this is a complex area and it is strongly recommended that you get legal advice to see what your position would be in the event that a village operator becomes insolvent.

Before signing up

If moving into a retirement village, you will be presented with several documents. These can be lengthy and quite daunting. It is critical that you read and understand the documents – especially the contract. If you decide to enter into the contract, it will generally be legally binding for both you and the operator.

Consider getting legal advice to ensure that your interests are protected. Retirement villages are a specialised area of law, so try to find a lawyer who has experience with retirement village contracts.

You should also consider getting independent advice from an accountant or licensed financial planner on the financial consequences of moving into and exiting a village.

It is important that you understand the risks and consequences that could flow from a need to exit the village or from an insolvency of a village operator. Always do your homework and seek independent, expert advice before signing a contract.

Ensure that any verbal agreements or claims made are written into the contract.

Where can I get more information?

Call the Seniors' Housing Centre on 1300 367 057.

The Department of Commerce produces an information booklet called *So you're thinking of moving into a retirement village*.

You can get a copy by ringing the Consumer Protection Advice Line on 1300 30 40 54 or download the booklet at www.commerce.wa.gov.au/ConsumerProtection/PDF/Publications.

The Western Australian Retirement Complexes Resident's Association (WARCRA) is a resident's association that can provide information on village life and other matters. Call 0488 812 888 or visit www.warcra.org.

For information about retirement village accommodation provided by members of Aged and Community Services Western Australia, call (08) 9244 8233 or 1800 672 500.

The Retirement Villages Association is the representative body for the retirement village industry. For information about villages that are members of the Retirement Village Association, call (08) 9322 9909.