

<b>Current Code of Practice provision</b>	<b>Proposed provision</b>
<p><b>COMPLAINTS FACILITY</b></p> <p><b>Note: in clauses 32 – 36 if a retirement village has a certificate confirming that it is exempt from appointing a statutory supervisor then any reference to a statutory supervisor in these clauses will not apply.</b></p>	<p><b>COMPLAINTS FACILITY</b></p> <p><b>Note: In clauses 31 – 36 if a retirement village has a certificate confirming that it is exempt from appointing a statutory supervisor then any reference to a statutory supervisor in these clauses will not apply.</b></p>
<p><b>31 Resident access to operator and statutory supervisor</b></p> <p><b>Access to operator or operator’s contact person</b></p> <p>1. The operator must have, maintain, and implement a process so that residents can contact the operator or their contact person about concerns and issues. The process must allow the operator or the contact person to acknowledge and respond in writing within a reasonable time, depending on the subject. The operator must tell residents in writing about any change to this process.</p> <p>2. The operator must give residents written details of the name of a contact person, when they are available, and how to contact them. Right 2, Code of Residents’ Rights</p> <p><b>Access to statutory supervisor</b></p> <p>3. The operator must have a process for residents to contact the statutory supervisor about an alleged breach of a right or to make a complaint. The operator must tell residents about any change to the process, including providing a contact name and details</p> <p>4. The operator must tell residents in writing of the name of the statutory supervisor and how to contact them. Right 2, Code of Residents’ Rights</p>	<p><b>31 Resident may raise an issue or concern informally</b></p> <p>1. The operator must have a procedure so that a resident may contact them, or their designated contact person, informally about a concern or issue, at any time.</p> <p>2. The operator must provide in writing the contact details of their designated person and when they are available. <i>Right 2 Code of Residents’ Rights.</i></p> <p>3. The resident must receive acknowledgment and a response in writing within a reasonable time.</p> <p>4. This procedure (outlined in 31 (1)) does not prevent a resident from making a formal complaint under clauses 34 - 36 in the first instance.</p> <p>5. The operator must tell residents about any change to the procedure mentioned in clause 31, including changes to contact names and details.</p>
<p><b>32. Procedure for making and acknowledging complaints by residents</b></p> <p>1. The operator must have a written procedure for dealing with complaints by residents about the retirement village, the operator, or other residents of the retirement village. The operator must give a written copy of the complaints procedure to residents and intending residents on request. Section 51</p>	<p><b>32 Complaint Facility Objective and Monitoring</b></p> <p>1. A resident may have an issue or concern that they want to raise as a formal complaint:</p> <p style="padding-left: 40px;">a. about the village, the operator, another resident or other matter in the first instance; or</p>

2. The procedure for making, receiving, and resolving complaints must enable complaints to be resolved simply, fairly, and quickly.

3. The complaints procedure must also:

a. state that residents can ask the operator's contact person (and provide contact details) for information about their rights. Code of Residents' Rights

b. refer to the resident's right to complain to the village's statutory supervisor (and provide contact details) or to the Registrar of Retirement Villages (and provide contact details). Code of Residents' Rights

c. state that information about residents' rights and complaints and disputes procedures is published by the Retirement Commissioner

d. refer to the resident's right to involve a support person or people to represent them (at the resident's cost). Right 6, Code of Residents' Rights

e. state that complaints do not have to be made in writing. All complaints, however made, must be recorded and responded to as if they had been received in writing.

f. state that complaints may be made to the operator's contact person

g. state what the village's complaints procedures are, including any other help the operator will give to residents. Operators may offer residents a mediation service for informal discussions as an alternative to either the complaints or disputes process.

h. provide for the complaint to be promptly acknowledged by the operator or contact person in writing, including complaints received other verbally

i. state that the resident or operator may require that a dispute be resolved by a disputes panel Section 52

j. state the types of dispute, including breaches of the Act, for which a resident may give a dispute notice. Section 53

k. if a complaint is about the resident's occupation right agreement, state that the proposed action on the complaint will be suspended until the complaint is resolved. There may be occasions when the operator, after consulting the statutory supervisor, decides that it is in the best interests of the village as a community to continue with the proposed action.

b. if the resident previously raised the issue or concern informally, and is dissatisfied with the response.

2. The objective of an operator's complaint facility is to enable formal complaints to be resolved in a way that is resident-appropriate, fair, quick and cost-effective for operators and residents.

3. Operators must report to the Retirement Commissioner quarterly, in an agreed format, in relation to formal complaints for each village:

a. The number, nature and outcome

b. Any other matter relating to the operation of the complaints facility as the Retirement Commissioner may require

**33 Informing resident of the progress of the complaint**

1 The operator must ensure that the resident who has made a complaint is regularly kept informed about its progress.

**33 Formal Complaints policy**

1. The operator must have a written complaints policy for dealing with an issue or concern that a resident has raised as a formal complaint.
2. The complaints policy must be written in plain English and include:
  - a. the option a resident has to request that the village's residents' committee, if there is one, call a meeting with the operator or statutory supervisor under clause 30, and
  - b. the option a resident has of raising an issue or concern informally with the operator or its contact person under clause 31 at any time; and
  - c. an outline of the procedure for making and resolving a formal complaint as set out in clauses 34 to 36 below; and
  - d. contact details for people or agencies a resident can talk to about their formal complaint. These people include the statutory supervisor, the Registrar of Retirement Villages and the Retirement Commissioner; and
  - e. an explanation that the complaints policy does not prevent a resident from bringing an alleged breach of the Code of Residents' Rights to the attention of those people, agencies or any other person; and
  - f. an explanation of the procedure for referring an unresolved formal complaint to the disputes panel, as set out in clause 35 and 36 below, on issuing a dispute notice and on the Dispute Panel's ability to award costs; and
  - g. an explanation of the procedure for a resident to contact the statutory supervisor about an alleged breach of the Code of Residents' Rights as distinct from making a formal complaint under clauses 34 - 36
3. The operator must keep a written copy of the complaints policy in a common area for residents or intending residents to access and view at any time, and make available an electronic copy on the village's website and a resident-accessible intranet, if it has one.
4. The operator must offer to give a written copy of the complaints policy to a resident who wishes to make a formal complaint, and at any other time to an intending resident or resident upon request.

	<p>5. The operator must offer to explain the steps in the complaints facility to a resident or intending resident who receives a copy of the policy, and is encouraged to use the diagram provided as a communication tool.</p>
<p><b>34 Procedures for resolving and deciding complaints Resolving complaints</b></p> <p>1. The operator must follow the retirement village’s complaints procedure.</p> <p>2. Operators may offer residents a mediation service for informal discussions as a first step to resolving the complaint.</p> <p>3. If a complaint is about the resident’s occupation right agreement, any proposed action on the subject of the complaint must be suspended until the complaint is resolved. This is unless the operator, after consulting the statutory supervisor, decides that it is in the best interests of the village as a community to continue with the proposed action.</p> <p>4. If a complaint is resolved by mutual agreement, the resolution must be recorded and then signed by, and copied to, all parties. Deciding complaints where resolution is not possible.</p> <p>5. The operator must have a procedure for deciding complaints where resolution through the retirement village’s complaints system is not possible.</p> <p>6. Complaints that are not resolved through the complaints system can be referred to a disputes panel. Resolution of a dispute by a dispute panel is provided for in Part 4 of the Act and associated regulations. The operator is obligated to meet the costs of dispute resolution. Sections 48–75 and the Retirement Villages (Disputes Panel) Regulations 2006</p>	<p><b>34 Making a formal complaint</b></p> <p>1. If a resident wants to raise an issue or concern as a formal complaint, this may be done by either:</p> <ul style="list-style-type: none"> <li>a. writing the complaint themselves and giving it to the operator or its contact person; or</li> <li>b. if a resident is unable to write it, they may have a personal representative write it for them</li> <li>c. If neither option is available, then the operator may write the complaint at a resident’s request, based on what they tell them at the time.</li> <li>d. In both b or c the writer or operator must then read the complaint back to a resident to confirm it is recorded correctly.</li> <li>e. In all cases a resident needs to sign and date the complaint.</li> </ul> <p>2. The operator must provide a written acknowledgement within five working days of receiving any formal complaint.</p>
<p><b>35. Time limits for making and notifying the decision about the complaint</b></p> <p>1. The operator or person dealing with a complaint on behalf of the operator must make and notify a decision on the complaint as soon as reasonably practicable. In any event it should be within 20 working days of the complaint being made.</p>	<p><b>35 Procedure for resolving formal complaints</b></p> <p>Where a formal complaint is made by a resident, the following procedure will apply. (The procedure is set out in a diagram after clause 36)</p> <p>1. The operator will first work directly with a resident to resolve the complaint to a resident’s satisfaction.</p>

2. The operator will suspend taking any proposed action that is the subject of the complaint until the complaint is resolved. However, the operator may, after consulting the statutory supervisor, decide it is in the best interests of the village as a community to continue with the proposed action that is the subject of the unresolved complaint.
3. If a formal complaint is resolved by mutual agreement, or by reference to the statutory supervisor under (4) or by reference to a mediator or independent third party under (6), the resolution must be recorded in writing and include:
  - a. what actions if any are required to be taken by whom and by when;
  - b. any agreement as to costs and any other terms; and
  - c. must be dated and signed by all parties and copied to all parties
4. Where possible the complaint should be resolved to a resident's satisfaction under (1) above within [20] working days of the operator receiving it. If not, the operator must, on behalf of the parties, refer it to the statutory supervisor and ask them to work with the parties to provide both parties with an impartial perspective and recommend a way forward.
5. If the complaint is not resolved under (4) within [20] working days of being referred to the statutory supervisor, or it is not possible to proceed under (4) above, then the operator must provide a resident with the option of mediation.
6. If a resident agrees to mediation:
  - a. the operator will, on behalf of the parties, refer the complaint to an independent mediator.
  - b. The mediator must be a member of an alternative dispute resolution agency which is approved by the Retirement Commissioner and listed on the Retirement Commissioner's website. Alternatively the parties have the option to agree on another independent third party; and
  - c. If the parties cannot agree on a mediator the operator will, on behalf of the parties, ask the Retirement Commissioner to select one for them to engage

	<ol style="list-style-type: none"> <li>7. If a resident does not agree to mediation, or if the complaint is not resolved to the parties' satisfaction within [20] working days of the referral to a mediator or other third party, a resident may issue a dispute notice which would require the complaint to go to a disputes panel for resolution.</li> <li>8. Nothing in clause 35 limits a resident's right to take their complaint to a disputes panel, at any earlier time permitted under the Act, or a resident's or an operator's right to agree to mediation at any time during a dispute panel process.</li> <li>9. An issue or concern raised formally under clause 34 is deemed the first referral to the complaints facility for the purposes of the six-month time period a dispute notice must be given by. (Section 57)</li> </ol>
<p><b>36. Form of notification of the decision about the complaint</b></p> <ol style="list-style-type: none"> <li>1. The operator or person dealing with a complaint must inform the parties affected by the complaint of the decision in writing. The following details must be included: <ol style="list-style-type: none"> <li>a. the reasons for the decision</li> <li>b. any action the operator intends to take as a result of the decision</li> <li>c. a statement that no party affected is bound by this decision</li> <li>d. a statement informing the resident of their right to give a dispute notice if: <ol style="list-style-type: none"> <li>i - the resident is not satisfied with the decision</li> <li>ii - 20 working days have elapsed since the complaint was made. Section 52</li> </ol> </li> </ol> </li> </ol>	<p><b>36 Costs of mediation</b></p> <ol style="list-style-type: none"> <li>1. Each party will be responsible for paying their own costs in relation to preparing and attending any mediation they agree to.</li> <li>2. For mediation between an operator and a resident, the operator will be responsible for paying the mediator's costs. For mediation between residents, the operator and the residents involved will share the mediator's costs equally.</li> <li>3. Where a complaint is heard by a disputes panel under the Act, the operator will meet the costs of the disputes panel whether or not the operator is a party to the dispute. Note that as outlined in 33(2)(f) the disputes panel is able to award costs in favour of a successful applicant, which may be either operator or resident.</li> </ol> <p><i>See diagram of informal and formal options below</i></p>

