

Instructions and notes for village operators for completing: Form 3 - Village Comparison Document Form 4 - Prospective Costs Document

Purpose

These instructions and notes are to assist retirement village scheme operators (you) to complete the approved forms for the Village Comparison Document and Prospective Costs Document. It includes general instructions that apply to both forms, and instructions and guidance on specific items in each document.

Your precontractual disclosure obligations

From 1 February 2019, you are required to give a Village Comparison Document (in the approved form), and access for inspection of certain documents if they are in your possession, to prospective residents or someone acting on their behalf.

Additionally, you are required to give a Prospective Costs Document (in the approved form) about a prospective resident's particular unit to those seeking to enter into a residence contract for the unit.

Note: This guide does not outline all of your disclosure obligations under the *Retirement Villages Act 1999* (the Act) or the *Retirement Villages Regulation 2018*.

When to provide the Village Comparison Document

You must:

- give a copy of the Village Comparison Document for the scheme to a prospective resident within 7 days of receiving a request from the prospective resident
- include a copy of the Village Comparison Document in any promotional material for the scheme that is given to a person, other than as part of a general distribution of the material in a mail-out or other way
- publish the Village Comparison Document on the scheme's website so the document, or a link to the document, appears prominently on each page of the website that contains, or has a link to, marketing material for the scheme

You must also provide a copy of the Village Comparison Document with your application for registration as a retirement village scheme.

When to provide the Prospective Costs Document

- You must give the Prospective Costs Document to a prospective resident upon their request within 7 days of receiving from them any information that you need to complete the document.

Precontractual disclosure before entering into a residence contract

- You must give a Village Comparison Document and a Prospective Costs Document to a person at least 21 days before entering into a residence contract with the person. If there is a change, other than a minor change, in the information contained in the Village Comparison Document or Prospective Costs Document you must give the details of this change to the person 21 days before you enter into the contract with them.

You cannot charge a fee for the Village Comparison Document or for preparing and providing the Prospective Costs Document.

Selecting the relevant information for your documents

There is one approved form for the Village Comparison Document and one approved form for the Prospective Costs Document. These documents are to be used for all tenure types in retirement villages (i.e. mixed or multiple tenure, lease or licence, freehold, company title, unit trust, rental). You can tailor the information in the documents for the specific tenure type/s in your village.

General principles and instructions

| Principle / Instruction | Comments |
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| <p>1. As a general guide, the Village Comparison Document focuses on the village, while the Prospective Costs Document focuses on the particular unit.</p> <p>Forms must use 12 point Arial font to assist with making them easier to read for prospective residents.</p> | <p>The Village Comparison Document (at the enquiry stage) is intended to help prospective residents to compare villages.</p> <p>The Prospective Costs Document is intended to help a prospective resident to understand the costs of entering, living in, and leaving the particular unit and contract option they are interested in.</p> |
| <p>2. The documents do not replace the need for prospective residents to read, and to seek independent legal and financial advice, on their residence contract and on retirement village living in general.</p> | <p>The Village Comparison Document and Prospective Costs Document do not capture all the details of the residence contract. Any terms that are not defined in the forms are intended to be generic references to the relevant provisions of the residence contract.</p> <p>The residence contract should specify and define in detail particular obligations, such as the timing and the basis of any increases to ongoing costs.</p> |
| <p>3. You must complete the forms accurately, reasonably and in good faith.</p> | <p>Under the Act, it is an offence for a scheme operator or their representative to give false or misleading information in writing or orally to a resident or prospective resident. This includes information in the Village Comparison Document or Prospective Costs Document.</p> <p>Additionally, under the Australian Consumer Law, it is an offence to make false or misleading representations about goods or services, and if you do you may also be subject to civil claims for misleading or deceptive conduct.</p> |
| <p>4. Unless otherwise specified, the documents focus on:</p> <ul style="list-style-type: none"> • costs payable to you by the resident; • estimated costs payable by you to the resident • the accommodation, facilities and services that are currently on offer. | <p>The forms do not require you to provide or estimate any fees or moneys payable to third parties, unless otherwise specified. Exceptions include body corporate fees for community title / freehold residents.</p> <p>Unless otherwise specified, the forms are not to be used to provide other information, such as: the fees payable for optional services; services that may be (or will be) provided in the future; or the division of responsibilities for maintenance between owners/managers, individual residents, and owners corporations (if applicable).</p> <p>Any further information about your village can be included in other material that you provide to prospective residents.</p> |

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| <p>5. Unless the form requires or directs you to provide a list, do not attach appendices or other documents to the form.</p> | <p>Unless otherwise required or permitted in the form, you should not attach other documents to the forms, or answer a question in the form by directing the reader to an attachment, appendix, or other document.</p> <p>All permitted attachments should be in the form of a list, and include a heading that refers to the relevant item number in the Village Comparison Document or Prospective Costs Document</p> |
| <p>6. Do not delete any part of the form.</p> | <p>Not all the information in the form will apply to your village or you may answer 'no' to some questions. However, it is equally important for prospective residents to see what does not, as well as what does, apply. For example, the Prospective Costs Document includes a section on 'ongoing costs' at item 4.5. It is important for prospective residents to understand what costs are and what costs are not included in the General Service charge.</p> |
| <p>7. All amounts should be GST-inclusive. However, if any GST-exclusive amounts are allowed by law and you wish to state the GST-exclusive amount, indicate that the amount is GST-exclusive.</p> | <p>You can only provide a GST-exclusive amount, where you are allowed to do so by law.</p> <p>See information on:</p> <ul style="list-style-type: none"> • GST and property, on the Australian Tax Office website at: https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Property/GST-and-property/ • displaying prices, on the Australian Competition and Consumer Commission website at: https://www.accc.gov.au/business/pricing-surcharging/displaying-prices • Seek independent legal advice if you are unsure about your GST obligations. |
| <p>8. Customising the form for the Village Comparison Document and Prospective Costs Document to include village name and logo.</p> | <p>You can add a coloured banner across the top of the first page of the forms that includes your village name, village logo and a picture of your village.</p> <p>The Village Comparison Document is not to include other photos, pictures or marketing material about your village, as its key purpose is to give factual information only so that prospective residents can more easily compare villages.</p> |

Village Comparison Document

Updating and amending the Village Comparison Document

The Act requires that as soon as you become aware of a material change to any of the information in the Village Comparison Document for a scheme, you must amend the document, so it contains the correct information.

Within 28 days of amending the Village Comparison Document, you must give the Chief Executive of the Department of Communities, Housing and Digital Economy written notice of the amendment.

You must ensure that the scheme website contains the latest Village Comparison Document for the village scheme.

The Village Comparison Document will require updating at least annually as several items refer to information for the last financial year. This is important so that prospective residents have relevant updated information when comparing villages and before deciding to take the next step and request a Prospective Costs Document for a particular unit in a village.

Part 1 Operator and management details

Item 1.3 requires you to advise whether there is an approved transition or closure plan for the village.

A written transition plan approved by the Department of Communities, Housing and Digital Economy is required when an existing scheme operator is transitioning control of the retirement village scheme's operation to a new operator.

A written closure plan approved by the residents of the village (by special resolution at a residents meeting) or by the Department of Communities, Housing and Digital Economy is required if an operator is closing a retirement village scheme. This include winding down or stopping the operation of the village, even temporarily.

Part 2 Age limits

In Item 2.1 on Age limits for residents, you must insert all relevant information applying to age limits for the village. Under section 69(a)(i) of the Act a scheme operator may refuse to accept an offer to purchase a right to reside in an accommodation unit if the operator reasonably believes the prospective resident is not within the age limits for residents stated in the Village Comparison Document.

Part 3 Accommodation units – Access and design

In Item 3.3 at 'Other key features' you may include information about whether your village meets the Livable Housing Design Guidelines and which performance level (platinum, gold, or silver) has been achieved. A link to the Livable Housing Australia website is provided under Further information at the end of the Village Comparison Document.

Part 5 Planning and development

Item 5.2 requires you to advise whether there is an approved redevelopment plan for the village.

A written redevelopment plan approved by the residents of the village (by special resolution at a residents meeting) or by the Department of Communities, Housing and Digital Economy is required if an operator is undertaking certain types of redevelopment at the village. This is different to a development approval.

Part 6 Facilities onsite at the village

When you complete Item 6.1 you must include **current** facilities on offer as at the date of the Village Comparison Document.

If a facility is yet to be built or completed, do not include it, or refer to in any other document. You have already included any new facilities that have development approval or an application pending at Item 5.2. Any other information you would like to provide about future facilities could be included in your marketing material.

Part 7 Services

In Item 7.1 you must list each service provided to all village residents funded from the General Services Charges Fund paid by residents e.g. cleaning and maintenance of communal areas and facilities; management and administration services; payment of council rates for communal areas; payment of power and water charges for communal facilities.

You do not need to include any services that are listed elsewhere in the form, such as emergency help systems.

In Item 7.2 you must include in the list, all current optional personal services that are available on a user-pays basis, information about fees and whether the service is provided directly by you or by a third-party provider arranged by you.

Part 8 Security and emergency systems

In Items 8.1 and 8.2, if you answer yes or optional, you must include details about any costs or other requirements of residents to access the security system or emergency help system e.g. must have a landline phone.

Part 9 Ingoing contribution – entry costs to live in the village

In Item 9.1 you must record the estimated ingoing contribution or sale price range for all types of units in your village. You must have a reasonable basis for your estimate, including using your current price list and recent past sales. You should note for your records the matters that you considered when estimating ingoing contribution or sale price ranges.

In Item 9.2 you must provide information on any different contract options currently available or on offer to prospective residents. Do not include former contract options or options for existing residents if these are no longer offered to prospective residents.

Part 10 Ongoing costs – costs while living in the retirement village

In Item 10.1 if the item *Units within a community title scheme only* applies to your village, you must identify the ongoing costs for the Body Corporate Administrative Fee and Sinking Fund for freehold units. If the Body Corporate Administrative Fee is incorporated into the General Services Charges Fund you should separate out these amounts and insert the figures in the respective tables.

In Item 10.3 you may list any relevant fixtures, fittings and appliances, including and exterior items that the resident is responsible for. If this does not apply to all the units in your scheme then note any exceptions for particular units.

Part 11 Exit fees

In Item 11.1 you must set out the exit fee the resident may have to pay the operator. If the exit fee is not calculated using the resident's ingoing contribution, make sure you delete 'your ingoing contribution' and insert the relevant basis for the unit from the drop down box e.g.

- ingoing contribution paid by the next resident
- purchase price you paid
- purchase price paid by the next resident

If there is more than one formula for calculating exit fees under new residence contracts you must include these in the table.

Part 13 Capital gains or losses

In Item 13.1 you must identify whether residents share any capital gain or loss. Do not deduct exit fees in specifying the residents' share in any capital gain or loss, as costs payable on exit are outlined elsewhere in the Village Comparison Document.

Part 14 Exit entitlement or buyback of freehold units

This section requires you to identify your mandatory payment of exit entitlement or buyback of freehold unit obligations. You are able to delete whichever doesn't apply.

Part 15 Financial management of the village

For the General Services Charges Fund, please insert the balance of the fund as at the end of the financial year.

Part 16 Insurance

In Item 16.1 you must identify what insurance policies residents are responsible for. If the village is a freehold scheme, you must specify if residents are responsible for building insurance, depending on whether the units are free standing or not.

Part 17 Village life

In Items 17.2 and 17.3 you must identify any restrictions on pet ownership and visitors. If you answer 'yes', you must specify what these restrictions are. You may add that 'further details are available upon request' if there are more detailed rules that apply.

Part 18 Accreditation

In Item 18.1 you must identify whether or not your village is accredited by a recognised industry organisation.

Accreditation refers to current and valid accreditation as at the date of the Village Comparison Document. If your accreditation has lapsed or has been suspended, mark 'no'.

Access to documents

The list of operational documents held by the retirement village scheme operator includes approved redevelopment, transition or closure plans and statements of the balance of the capital replacement fund, maintenance reserve fund or general services charges fund.

Prospective Costs Document

When preparing the Prospective Costs Document you must consider whether your responses reflect the requirements of the prospective resident's residence contract.

Part 3 Ingoing contribution and other entry costs

Items 3.1 and 3.2 in each Prospective Costs Document must specify the specific entry cost amounts drawn from the residence contract. Do not provide costs as a range or an average.

Part 4 Ongoing costs

Item 4.1 to Item 4.4 in each Prospective Costs Document should provide specific amounts drawn from the residence contract. Do not provide costs as a range or an average.

For Item 4.3 you must only include those optional personal services and charges that the prospective resident has indicated that they intend to receive under their contract. This includes optional services that are available on a user-pays basis, whether the service is provided directly by you or whether you have arranged for a third-party provider to deliver these services. The full list of available personal services and fee information is included in the Village Comparison Document.

Part 5 Exit fee, reinstatement of Unit and other exit costs

If the exit fee payable is calculated on the next resident's ingoing contribution or the sale price of the unit, you must specify this in the table. You must have a reasonable basis for the estimate you calculate the exit fee on and you must note how you calculated this figure. This will be the same as set out in the table for exit entitlements at Part 6.

In Item 5.6 you must specify ongoing charges after the resident leaves the Unit. This includes any personal services fees that are contractually payable to you by the resident (even if you pass on that money to third-party providers).

Item 5.6 also notes the separation of the General Services Charge contribution from the Maintenance Reserve Fund contribution.

Part 6 Exit entitlement

In Items 6.2 and 6.3, if you specify a calculation or formula for working out capital gain or loss, do not deduct exit fees from any capital gain or losses as exit fees are listed separately.

Table of estimated exit entitlements

You must have a reasonable basis for the estimates used in the table. At the foot of the table, you must include a statement about the basis for your estimate of the next in-going contribution or resale price, and whether the next in-going contribution or resale price is based on market value. If based:

- only on the market value of the unit, state the estimated annual capital growth (if you have a reasonable basis for estimating a capital loss, provide a negative figure)
- on factors other than, or in addition to, the market value of the unit, state the relevant basis, for example, estimated movements in Consumer Price Index (CPI)

For your records, you may wish to note the matters you considered when calculating your estimates.

Reinstatement costs have not been included in the table, although it is reasonable that estimated reinstatement costs may increase over the period from one to 10 years of residence.

Access to documents

The list of operational documents held by the retirement village scheme operator includes approved redevelopment, transition or closure plans and statements of the balance of the capital replacement fund, maintenance reserve fund or general services charges fund.

Further information

For information on your obligations as a retirement village operator and on completing these forms contact:

Regulatory Services, Department of Communities, Housing and Digital Economy

Telephone: 07 3013 2666

Email: regulatoryservices@chde.qld.gov.au

The full version of the Retirement Villages Act and Regulation can be found at www.legislation.qld.gov.au