



Retirement Living and Aged Care Advice

Moving to a retirement or aged care community is a significant life event. It can be one of the largest financial transactions, and most complex legal contracts, you enter into during your lifetime.

As they say, knowledge is power. It is strongly recommended that you obtain financial advice from a qualified aged care adviser, together with legal advice from an experienced lawyer as to the entry and exit fees, inclusions, exclusions, rules of the village or facility and the effect this may have on your estate plan, before signing any documents or at least during the 'cooling off' period.

Retirement Village Contracts

There are many different types of retirement villages offering many different styles of purchase or occupancy arrangements to prospective residents.

All retirement villages in Queensland are governed by the *Retirement Villages Act 1999* (Qld). There are some mandatory terms in each agreement (such as a 'cooling off period'), but each village can have their own policies with respect to:

- entry costs (the 'Ingoing Contribution');
- inclusions;
- legal or valuation fees (on entry and/or exit);
- costs and retention of any improvements;
- renovation costs on exit;
- reinstatement costs on exit;
- who receives any capital gain on exit – the village, the resident or both.

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These terms can be negotiated prior to signing the contract.

The greatest area of misunderstanding and dispute about retirement village contracts are the costs on exit. You may intend to live there for the rest of your life, but it might not work out that way. Exit costs are based on a percentage of your initial financial contribution. The percentage varies depending on the number of years you have lived in the village.

If you become unwell and need to be moved to an aged care facility, will you receive sufficient funds on exit to cover entry into your preferred aged care facility? Consideration should be given to all future possibilities.

Do you have an Enduring Power of Attorney in place so that you have a trusted person who can help with your transition to an aged care facility if you become unwell?

We attach a checklist which

Aged Care Contracts

All aged care facilities are governed by the *Aged Care Act 1997* (Cth).

Like retirement villages contracts, there are some mandatory terms in all contracts (e.g. the basic daily care fee and the method of calculation for any means-tested fee) but each facility has flexibility with respect to:

- accommodation payments, namely the Refundable Accommodation Deposit (RAD)*. This amount is also used to calculate any Daily Accommodation Payment (DAP);
- additional service costs such as electricity;
- whether they will charge you for electricity or other services.
- the fixtures and fittings included;
- costs for moving to another room;
- rules for living in the facility, including how long you can leave your room vacant for without voiding your contract.

*Please be aware, if you live in the aged care facility until your death, any RAD repayable following your passing will be refunded to your estate, for distribution to your beneficiaries under your Will. If another person is contributing to your RAD, you will need to give this consideration at the time of payment. Is it to be refunded to them? If so, you may need to either update your Will to reflect this, or alternatively, enter into a separate written agreement with that person.

For more information or assistance...

At **Life Legal**, we have experienced aged care planning lawyers to assist with your transition to a retirement or aged care community.

In most circumstances, we offer fixed fee pricing for our aged care planning services. We will confirm whether you meet our criteria for this pricing after an initial discussion with you. There are generally two stages to our advice. You may choose to engage us for one, or both steps.

STEP 1 – Comprehensive Review and Advice on Contract:

- reviewing all documents received from your chosen village or aged care facility;
- drafting a comprehensive letter of advice setting out the terms and conditions of the agreement and accompanying documents;
- for aged care facilities, our fee includes a search of the Aged Care Safety and Quality Commission records with respect to the auditing of the facility and we will advise you of any reported compliance issues;
- meeting with you to provide the advice (at our offices, or your preferred location within 30km of Townsville City);
- answering any questions you have about the documents;

STEP 2 - Conveyance of Interest:

- liaising/negotiating with the village or aged care facility (or their legal representatives) with respect to any changes you wish to make prior to signing;
- reviewing and arranging for signature of all required documents and delivering signed documents to the village or aged care facility (or their legal representatives);
- checking figures and arranging for settlement;
- attending to settlement on your behalf'
- finalising all steps to ensure your interest is protected (for example, ensuring your lease is registered with Titles Queensland).

If you would like further information, please call us or visit www.lifelegal.com.au to book a free 15 minute discussion.

The information contained in this document is for general guidance only. It should not be used as a substitute for legal advice tailored to your individual situation. While Life Legal has made every attempt to ensure the information in this document is correct at the time of publication, we are not responsible for any errors, omissions or for results obtained from the use of this information.

Checklist for Retirement Living

Weighing up your lifestyle choices and financial costs is a balancing act when it comes to finding retirement living that is right for you. The aim of this checklist is to help you gather and consider as much information as you can before you make a decision.

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- Visit a number of villages and picture yourself in each of them. Talk to residents, as well as your friends and family when making your decision.
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- Do you prefer new, or established accommodation? High rise? A garden? Take time to view a variety of options. If possible look closely at floor plans and view lived in areas, not just a display unit.
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- Does the accommodation include airconditioners in each bedroom and living area? Window coverings? A dishwasher or provision for one?
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- How will you continue to include your loved ones in your life at the village you choose? Is the village close to friends and family? Can they stay overnight for a short visit?
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- Are pets allowed?
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- Can you maintain your own garden?
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- Does the village offer bus/transport services?
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- An engaging lifestyle is a very important consideration. Can you keep up your favourite hobbies or learn new ones? What clubs/social groups/activities are offered?
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- Are meals or a dining area available?
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- Can you meet the on-site manager? Do you relate well? What involvement does the residents committee have? How are disputes resolved in the Village?
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- Can you afford the ongoing costs – not just entry costs? Understand what they are. If a couple, could you afford the fees if one of you is no longer there (eg. Your partner requires nursing care or has died)?
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What sort of interest are you purchasing? Freehold, leasehold or licence to reside?

Is the village attached to an aged care facility if you need nursing care in future? Do you automatically receive a room? Are there any additional costs in transitioning from one to the other?

If your retirement village doesn't offer nursing care, consider the costs of transitioning to an aged care facility.

What's covered in the MSF (Monthly Service Fees)? Do you pay for electricity, gas, water, internet separately? Are these shared, or are they individual costs?

What arrangements are in place for the maintenance of:
Units;
Community facilities;
Grounds/common areas?

When are village staff on duty? How often is there a nurse on duty? Who responds to emergency call buttons? Are these provided?

What happens with any Capital Gain on the unit? What are the refurbishment requirements?

Exit Fees – What are they? When are they payable?

If you leave the village, what are your entitlements? How soon will they be paid?

Do you have the right to transfer your entitlements to family, or do you need to do this via your Will?
