



Statements of expenditure

Retirement Villages Act 1999

The requirements of the *Retirement Villages Act 1999* regarding village expenditure are explained in this fact sheet.



IMPORTANT

All residents of the village have the right to vote on an expenditure statement, even if they paid nothing to enter or their recurrent charges are linked to a fixed formula.



QUICK TIP

Residents have the right not to consent to any item on the statement, despite what their contracts may say their recurrent charges can be used for. The operator must be advised of the item or items to which they object.

What is a statement of proposed expenditure?

The *Act* requires each operator to prepare, or have prepared, a statement of proposed expenditure for each village prior to each financial year. It should itemise the ways in which the operator proposes to spend residents' recurrent charges during the coming year.

What form must a statement of proposed expenditure take?

The matters that must be dealt with in a statement of proposed expenditure are contained in clause 19 of the *Retirement Villages Regulation 2000*. A model expenditure statement, that meets these requirements, is set out in Schedule 6 of the *Regulation* and can be adopted with changes where applicable.

Importantly, the statement must be accompanied by a notice that complies with section 112(4) of the *Act* and clause 22 of the *Regulation*. Generally, the purpose of the notice is to outline the process to residents and explain the reasons for any changes in expenditure from the previous year.

Two or more unlike categories of expenditure cannot be grouped together, such as under 'sundries', 'administration' or 'management'.

What must not be in a statement?

Certain matters cannot be financed by recurrent charges and should therefore, not be in a statement of expenditure.

They include fees for membership of industrial or professional associations (eg. ASA, RVA), overseas travel expenses by the operator and the cost of internal repainting of vacant premises.

Generally, depreciation or replacement of fixed items of capital (eg. buildings, stoves, or carpets) should not appear in a statement of expenditure, unless the village does not charge an ingoing contribution.

What if some expenses are shared?

In many cases the residents of a particular village may only be charged a proportion of certain costs (eg. telephones, wages, village bus). This may be because expenses are shared with residents of another village, a nursing home or a hostel run by the same operator. Certain costs may also be shared where a village has a mix of self-care and serviced units.

If so, the statement of expenditure must show the method or calculation by which costs are proposed to be apportioned. This could be done by way of notes to each relevant item or by having different columns for each village (and a total column) on the one expenditure statement. Residents then have a clearer picture of any subsidisation that may be occurring.

Should a Residents Committee be involved in the drafting stage?

An operator may wish to meet with the Residents Committee, or a representative, to discuss ideas and issues before finalising the proposed expenditure statement. A Residents Committee can initiate such meetings under section 72 of the *Act*.



IMPORTANT

Any resident can apply to the CTTT if the operator fails to give a proposed statement within the required time frame.



QUICK TIP

Residents and the operator may wish to agree on what will constitute a 'minor variation' before the year starts.



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 13 32 20
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When must a statement of proposed expenditure be provided?

A statement of proposed expenditure must be given to every resident of the village at least 60 days before the start of each financial year (eg. by 30 April if the village operates on a 1 July to 30 June basis).

What must residents do after receiving a statement of proposed expenditure?

It is important to understand that this process is only about the proposed expenditure for the village. A statement of proposed expenditure has no bearing on whether recurrent charges or the level of services and facilities can be varied. These matters must be dealt with by separate notices under the new *Act*.

Residents must meet within 30 days of getting the statement, consider it and vote on whether to accept the expenditure as proposed. More than 50% of those voting must agree with it for the statement to be 'approved'. After the meeting, the operator must be advised of the decision. Silence is not consent. If no advice is received by the operator within the 30 days residents are taken to have refused consent.

The Residents Committee, or any resident if there is no Committee, has the right to ask the operator for further information as part of the consideration process. This could include such things as quotes for repairs, quotes for services (eg. auditing), copies of any maintenance contracts or insurance policies.

What steps can an operator take if residents do not consent?

The operator could accept the residents' views and issue an amended statement of proposed expenditure. Otherwise, the operator may make an application to the Consumer, Trader and Tenancy Tribunal (CTTT). The Tribunal has a wide range of orders it can make to settle such disputes (see section 115(2) of the *Act*). It may have regard to the reasonable cost of services provided, the need for those services and any other relevant matter.

Only if an application is made under section 115 can the operator spend recurrent charges to meet the reasonable and necessary costs of operating the village until the Tribunal makes its decision.

Can an approved statement of expenditure be amended?

Once the expenditure has been approved, by the residents or the Tribunal, it is important that the operator adheres to it (apart from minor variations). If they do not, residents can seek refunds of their recurrent charges. Having said this, an operator can seek to amend the 'approved' expenditure if unforeseen circumstances arise. But they must follow the same process as with the 'proposed' expenditure.

Where to get more information

Fair Trading Centres

Tel. 13 32 20

Specialist Support Unit

Tel. 9895 0297

Toll free: 1800 625 963

TTY Tel. 9338 4943

Telephone service for hearing impaired.

Language assistance Tel. 13 14 50

Ask for an interpreter in your language

www.fairtrading.nsw.gov.au

This fact sheet must not be relied on as legal advice. For more information about this topic, please refer to the appropriate legislation.