

# Applications about Retirement Village disputes

## Steps you should take if you have a dispute with the operator of a retirement village

The retirement village you live in is required to have a dispute resolution policy. This policy should be included in your residence contract. You may also request a copy of the policy from the operator.

The Office for Ageing Well (which is part of the Department for Health and Wellbeing) has a fact sheet that provides guidance about the dispute resolution process which you can access here, [Being Active: a great way to have fun! \(www.sa.gov.au\)](http://www.sa.gov.au).

If you have used reasonable attempts to resolve your dispute with the retirement village operator (using the dispute resolution policy), then you may make an application for the dispute to be resolved by SACAT.

The Tribunal may give you permission to make an application without making attempts to resolve the dispute with your operator. However, this will only be granted in exceptional circumstances where an urgent application is warranted.

## Requirements for an application to SACAT

SACAT can only deal with your application if it concerns something that happened less than 4 years before the day you make the application, (unless SACAT decides otherwise).

## Who can make an application to SACAT?

Any party to a dispute between a resident and a retirement village operator may make an application to SACAT for resolution of the dispute.

## What type of disputes can be brought to SACAT?

SACAT can deal with disputes where it is claimed that:

- a party to a residence contract has breached, or failed to comply with, the residence contract
- a party has breached, or failed to comply with, a provision of the *Retirement Villages Act 2016*
- the retirement village operator has acted in a **harsh or unconscionable** manner
- or if there is a dispute about the payment of an exit entitlement

You may seek advice from the Office for Ageing Well if you are unsure whether you can make an application to SACAT.

Retirement Village disputes can be complex due to the legislation which applies to them, and the terms of the residence contracts. You should consider seeking advice from the Aged Rights Advocacy Service which may be able to advocate on your behalf to assist to resolve your dispute. You can make an application for an advocate here, [SA.GOV.AU - Living in a retirement village \(www.sa.gov.au\)](http://www.sa.gov.au). You can also contact the Office of Ageing Well to request a form on **(08) 8204 2420**.

## How does SACAT deal with a retirement villages dispute?

There are specific orders and remedies SACAT can make in response to an application. You must be able to identify what you would like SACAT to do to resolve your dispute.

## What documents should be provided in a retirement village dispute?

The types of documents you provide to SACAT will depend on the type of dispute. Generally, you should provide:

- a copy of your residence contract
- a copy of all relevant correspondence between the resident and operator

You should also consider whether or not any of the following documents may be relevant:

- a disclosure statement or promotional material
- a copy of the residence rules
- copies of accounts
- any meeting minutes
- any other relevant documents you wish to rely on in your application

See also: [SACAT's factsheet](#) about providing documents in a dispute.

See also for more information about the SACAT hearing process: [SACAT's factsheet](#) about Housing and Tenancies.

## What can you do if you disagree with a SACAT decision?

If you are unhappy with a decision made by SACAT in relation to a retirement village dispute, you have two options depending on the reason you want SACAT to review the decision.

### Applying for a review for non-attendance

If you were unable to participate in a Tribunal hearing for good reason, and you were unable to be represented in that hearing (for a good reason), then you may apply for a Tribunal order to be reviewed on that basis.

### Applying for an internal review

If you disagree with a decision of SACAT (eg the Tribunal has ordered too much or too little compensation, the decision is 'unjust' or 'unfair' or wrong), then you may apply for an internal review of the decision.

Other examples include:

- If you think the Tribunal has incorrectly determined the amount of premium to be repaid
- If you think the Tribunal's decision about whether or not a term of the residence contract is harsh or unconscionable is incorrect
- If you think the Tribunal has incorrectly excused non-compliance with the Retirement Villages Act
- Where you have further information to provide to the Tribunal (and that information was not available at the time of the original hearing or there is a good reason why it was not provided)
- If you think the Tribunal placed undue emphasis on the evidence provided by the other party, or the evidence provided by that party was false or misleading.

This application must be made within **1 month** of the Tribunal order (although the Tribunal has the power to accept late applications in certain circumstances).

### **Fees**

You must generally pay a fee when you make an application to SACAT. However, this depends on the type of application you are making and your role in the matter.

The online application form will tell you the applicable fee for your application. You must pay this fee at the time of making your application or you may make an application for the fee to be waived.

SACAT will not do anything with your application until any applicable fees have been paid or waived.

Further information about SACAT fees and charges is available at our website, [Fees and charges](#) and [Fee waivers and exemptions](#).

### **How do I apply to SACAT?**

All applications to SACAT are completed through our online application form which you can find at our website: [www.sacat.sa.gov.au](http://www.sacat.sa.gov.au).

All the information you are required to provide will be contained in the online application form.

If you are unable to complete the form online, you can contact the Tribunal for assistance on 1800 723 767. You can also visit SACAT's offices at Level 4 or 7, 100 Pirie Street, and use a computer at one of SACAT's public kiosks.

### **Contact the Tribunal**

If you would like to speak to a staff member about a retirement village dispute or a decision about a retirement village dispute, please telephone SACAT on 1800 723 767 (select option 4 and then option 1).

This information sheet does not constitute legal advice and does not relate to the circumstances of any individual matter. If you wish to have legal advice you should seek that independently.