

## Evaluating owner and operator programs

### Freedoms, rights and responsibilities checklist

Item #	Item	Compliance full, partial or no)	Comment
	<b>Basic Rights</b>		
1	To full and active use of his or her personal, civil, legal and consumer rights		
2	To quality accommodation appropriate to his or her needs and financial resources		Accommodation fit for purpose  Maintenance subject to residents providing adequate funding in the case of resident funded villages
3	To quality services appropriate to his or her needs		Provided adequately funded in the case of resident funded villages
4	To be serviced by village staff and contractors who recognise the village is his or her home and behave as guests		
5	To be treated with dignity and respect, and to live without exploitation, abuse or neglect		
6	To live without discrimination or victimisation and without being obliged to feel grateful to those providing his or her accommodation.		
7	To personal privacy		Privacy when desired and disclosure when desired
8	To live in a safe, secure and homelike environment, and to move freely both within and outside the retirement village		Owners and operators are guests in villages they serve

9	To be treated and accepted as an individual, to have his or her individual preferences respected and to be treated with respect		See also the right to services without discrimination including proactive maintenance as distinct from having to beg for it
10	To have free access to information about his or her rights, village operations (including financial information) and any other information that relates to the resident personally		
11	To exercise free choice in the utilisation of personal services		
12	To be consulted on, and to choose to have input into, decisions about the running of the retirement village		
13	To complain and to take action to resolve disputes		
14	To have unrestricted access to advocates and other avenues of redress		
15	To be free from reprisal, or a well-founded fear of retaliation, in any form for taking action to enforce his or her rights		
16	To have unrestricted access to services and activities generally available to residents in the village.		The core intention is to overcome squeaky wheel bias and neglect of the quiet and timid.
17	Clear communication from management		
	<b>Basic Freedoms</b>		
18	To continue his or her cultural and religious practices, and to keep the language of his or her choice, without discrimination		
19	To select and maintain social and personal relationships with		

	anyone else without fear, criticism or restriction		
20	To freedom of speech		
21	To maintain his or her independence		
22	To accept personal responsibility for his or her actions and choices, even though these may involve an element of risk because the resident has the right to <u>take</u> the chance and not to have the <u>risk</u> used as a ground for preventing or restricting his or her actions and choices		
23	To maintain control over, and to continue making decisions about, the personal aspects of his or her daily life, financial affairs and possessions to the limit of his or her capacity		
24	To be involved in the activities, committees, associations and friendships of his or her choice, both within and outside the retirement village		
25	Free access to information about the village, village operations and its finances subject only to a very few exceptions		Applies specifically to resident funded villages This access does not include information about the operator's and owner's businesses unless necessary to justify head office charges for services rendered
26	<b>Basic protections (stronger than current law and proactive) and preventions</b>		
27	Against harassment		
28	Against physical abuse		
29	Against sexual abuse		

30	Against financial abuse		
31	Against exploitation		
32	Against misleading and deceptive conduct		
33	Against fraud and financial irregularity (effective independent financial audit, proactive internal audit etc.)		
34	Operator failure (all resident contributed funds held in bank accounts with 'for the benefit of the residents of xxx village' in the name		
	<b>Protection against overly complicated, misleading, intimidating and extortionate contracts)</b>		
35	Pricing certainty		
36	Deferred fees expressed as a % of the ingoing amount		
37	All fees calculated to the day (not a week, month or year)		
38	Fees proportionate to the commercial reality of the accommodation or service (a 35% DMF at three years is not)		
39	Simple, clearly expressed, plain English consumer contracts		
40	No provisions in conflict with Australian Consumer Law, the Retirement Villages Act or the Owners Corporations Act.		
	<b>Dispute resolution</b>		
41	The right to a clear, simple and operational definition of a complaint or dispute trigger and		

	of resolution (a matter is not resolved if the resident parties say it is not)		
43	The benefit of a prohibition on requiring a resident complainant or disputant to present the complaint or dispute in writing		
44	The right to approval or rejection of each step of the process requires		
45	The benefit of procedural fairness guarantee		
46	The benefit of a prohibition on conflicted adjudicators and mediators		This prohibition does not rule out an operator's employee adjudicating on or mediating a management complaint but does require a guarantee that a conflicted employee will stand aside and that there is an obligation on the employee dealing with the matter to act impartially
47	Impartial advice on their dispute resolution options (i.e. no tilting the process towards operator or industry operated options)		
48	Fair compensation for any resident or resident body loss caused by an owner or operator failure (the owner or operator provides the compensation, not the village)		Resident funding of a village is not a reason to deny compensation. The DMF provides adequate revenue
49	A free, expert, timely and independent appeal process that has the power to make binding determinations		
	<b>Resident participation in decision making</b> (resident funded villages)		
50	The primacy of the resident		The residents can delegate

	body's will (the resident body can delegate to some matters the residents' committees and can withdraw that delegation without notice plus can also in very limited circumstances delegate to the village manager and withdraw that delegation without notice)		limited matters to the village manager if there is no relevant residents' committee
51	The right to participate in the development of budgets and long-term maintenance plans and right not to approve such budgets and plans and the right not to approve expenditure on long-term maintenance		Protection for the operator against breach of contract limited to the extent of the resident bodies failure to provide adequate funds  Protection for the owner against residents refusal to authorise expenditure on long-term maintenance (appeal to a regulator or independent supervisor)
52	Genuine consultation (as distinct from telling or consulting but routinely ignoring resident will) - requires the presentations of a well-developed budget proposal, a well-developed long-term maintenance plan and a well-developed individual planned maintenance proposals		
	<b>Professional management</b>		
53	Financial management		
54	Project management		
55	Maintenance management		
56	Operations management		
56	Staff management		
57	Catering management		

58	Activities support		
	<b>Village redevelopment and repurposing</b>		
59	The collective right to veto village redevelopment and repurposing on reasonable grounds		With the operator having the right to appeal but an obligation to pay the legal costs of the residents.
60	The right to minimum disruption		
61	Where necessary, the right to alternative accommodation of equivalent or better standard and amenity (including packing moving and unpacking and putting away assistance)		
62	The right to reasonable communal facilities and services during redevelopment and repurposing		
63	The right to utilise, at no cost, the services of a professional advocate at all stages of the process		
64	The benefit of a strict no disadvantage test		