

Retirement Villages Practice Note

Amended 17th December 2021 to recognise the new COVID management “traffic light” system now in operation. When COVID restrictions limit the size of gatherings and require people to maintain physical distance.

Background

The terms of this Practice Note have been issued by the Registrar of Retirement Villages and the Retirement Commissioner.

Introduction

Clauses 26 – 27 of the Retirement Villages Code of Practice 2008 (the Code) prescribe duties of the operator to hold an Annual General Meeting (AGM) and to call special general meetings and informal meetings.

The purpose of this Practice Note is intended to assist operators by suggesting best practice for holding those meetings during the period in which COVID restrictions limit the size of gatherings and require people to maintain physical distance (the period) so that residents:

- Receive information they would usually receive face to face,
- Have an opportunity to ask questions, make comments or discuss information with an operator and statutory supervisor; and
- Have access to the operator or their representatives and the statutory supervisor.

Application

All operators and statutory supervisors of registered retirement villages are strongly encouraged to follow this Practice Note during this period.

Holding AGMS, special general meetings or informal meetings during this period - Via an alternative meeting platform

Where a meeting in person cannot be held for health and safety reasons, and/or if to do so would be contrary to any government guidance or any legal requirements or restrictions; then after consultation with their statutory supervisor, operators should hold AGMs and any other meetings called using any mix of audio, audio & visual or electronic communication (‘meeting platform’).

Operators should ensure that every meeting platform provides an opportunity for residents to ask questions or raise any issues with them.

Notifying residents of meetings

Notices of meetings to residents should continue to be in writing as required by clause 27(1) of the Code.

Operators should set out guidelines in or with the Notices of meetings to inform residents:

- that the meeting will be conducted using a meeting platform; and
- further information to assist residents know how they can participate; and
- information to encourage residents where possible to provide questions to the operator and/or supervisor prior to an AGM, without limitation on residents' general business opportunities for questions; and
- for the purposes of clause 27(2) of the Code, a voting procedure approved by the statutory supervisor prior to issuing the notice of the meeting

Voting may without limitation be permitted by hand-delivered form, electronic means (for example, email or via internet site) and proxy.

Chairing of meetings

Meetings should continue to be chaired by the statutory supervisor as anticipated under Clause 27(3) of the Code, or a person appointed by a majority of residents who participate in a meeting platform where practicable.

An operator with an exemption from appointing a statutory supervisor should chair and conduct an AGM according to the terms of its exemption to the extent practicable.

Deferring AGMs until COVID restrictions are lifted or 31 January 2022 - to allow for a meeting in person

Wherever possible and subject to any health and safety issues, government guidance or any other legal requirements or restrictions operators should hold an AGM within 6 months of their balance date using an alternative meeting platform as required.

However, if following consultation with their statutory supervisor and with residents to consider their views on whether an AGM should be deferred, an operator considers that holding an AGM via an electronic platform would not meet the interests of some residents because they are not able to participate in an AGM via an electronic platform and/or the majority of residents would prefer that the AGM be deferred or do not object to it being deferred, then the Registrar would not be minded to take any compliance action if an AGM was delayed until the earlier of COVID restrictions being lifted or 31 January 2022 to provide for a face to face AGM.

If an AGM is delayed in accordance with the above paragraph but is unable to be held in person by 31 January 2022, the Registrar would not be minded to take compliance action provided the AGM was held by any platform by 31 January 2022.

Where an AGM is deferred, residents should be provided with the financial reports and any other documentation they would normally receive at an AGM (AGM Documentation) within 6 months of the operator's balance date. Residents should also be advised that they have the right to contact the operator and/or their statutory supervisor if they have any concerns or queries about the AGM documentation or more generally.

Issued by the Registrar of Retirement Villages and Retirement Commissioner

Dated Friday 17th December 2021

Registrar of Retirement Villages.....

Retirement Commissioner..... Jane Wrightson