

BBRV COMPLAINTS & DISPUTES RESOLUTION POLICY AND PROCEDURE

Purpose

This Complaints & Disputes Resolution Policy and Procedure (the “Policy”) is designed to ensure that B’nai B’rith Retirement Villages Limited (“BBRV”) and its staff undertake a fully transparent process when seeking to resolve a complaint or dispute.

Policy Statement

Based on the principles of natural justice, openness and procedural fairness, this Policy encourages a positive approach to resolving complaints and disputes. This Policy recognises that BBRV provides an independent seniors living environment within a communal setting for seniors and retirees, and does not operate an aged care facility or provide aged care related services.

Scope

This Policy differentiates between **complaints** and **disputes**. It applies to all BBRV staff in the handling of complaints. If a complaint escalates into a dispute or other disputes arise, this policy sets out the facilities that BBRV provides and that can be engaged by residents to seek to resolve the dispute(s). Also, if a complaint remains unresolved and escalates into a dispute or other disputes arise then the staff involved in seeking a solution may include the general manager, the village manager of the village concerned and BBRV’s legal counsel.

All BBRV staff understand that this Policy is designed to guide residents in the process of resolving complaints and disputes, either about BBRV personnel or other residents.

Roles and Responsibilities

1. All BBRV operational staff (i.e. village manager/administrator and property manager) are responsible for
 - a. Being aware of, and complying with this Policy;
 - b. Reporting and providing feedback to management on issues arising from complaints and disputes;
 - c. Providing suggestions to management on ways to improve the organisation’s complaints management system with the aim of proactively avoiding a complaint escalating into a dispute; and
 - d. Implementing changes flowing from individual complaints and disputes and their outcomes.

2. The general manager is responsible for;

- a. Providing adequate training support and direction to staff responsible for complaint and dispute resolution;
- b. Reviewing and reporting on any disputes arising between residents and management on the one hand, and between residents themselves on the other;
- c. Escalating disputes to the BBRV Board and to BBRV's external legal counsel as required; and
- d. Understanding the contributing factors that may have led to the complaint or dispute and implementing any necessary or recommended changes for improvement flowing from individual complaints and disputes and their outcomes.

Guiding Principles

From time-to-time, complaints, disputes and disagreements do arise within the villages. It is always desirable that these be resolved as quickly and amicably as possible.

1. Often the quickest and easiest way to solve a problem between residents and the village operator, or between residents themselves, is to discuss the matter in person and to try to come to a solution that all the parties involved agree on. In this regard, please see "Resolution Disputes" set out in the NSW Fair Trading "Retirement Village Living – a guide to your rights and responsibilities" document (the "Guide"), a copy of which is available at https://www.fairtrading.nsw.gov.au/_data/assets/pdf_file/0005/367943/FT011_Retirement_Village_Living.pdf
2. Information is provided in the Guide about the use of an independent third party in order to assist in the resolution of a dispute prior to escalating the dispute to the NSW Civil and Administrative Tribunal (NCAT).
3. All complaints and disputes should be handled in a safe and non-judgemental manner so that there is no cause for any participant to fear retribution by being engaged in the complaints and/or disputes process. Residents are entitled to justly complain without fear or consequence.

Key Points for Compliance - Retirement Villages Act Part 8

In NSW, if (a) resident/s or the operator of a village claims that a dispute concerning a failure by the operator to respect the rights of (a) resident/s or between the resident and the operator, or the operator and one or more residents, has arisen, then the resident/s or operator **may** apply to NCAT for an order in respect of the dispute.

Complaints Handling Procedure

1. All complaints are private and confidential and will not be shared outside BBRV's authorised persons without the prior written consent of the complainant.

2. To ensure that complaints are clearly understood and handled appropriately in a timely manner, all complaints must, in the first instance, be made in writing to the village manager/administrator. This includes complaints by (a) resident/s about another or other resident/s.
3. Where a complaint relates to the conduct of a BBRV staff member, the complaint must be made in writing to the appropriate BBRV staff member (see section 7 below).
4. Where a complaint relates to the general manager, the complaint must be made in writing to the Chair of the BBRV board (see section 8 below).
5. Complaints will be logged into the Village Complaints Log. The log is a confidential document and not available for inspection by residents or anyone not directly involved in BBRV's management or governance.
6. The process recommended under this Policy for complaints relating to **resident-to-resident grievances** is the following:
 - a. The complaint must be made in writing to the village manager/administrator detailing the nature of the grievance. This may occur following the initial meeting referred to in point 6c., but preferably prior to that meeting.
 - b. The complainant is entitled to invite or appoint a representative to act on their behalf. BBRV will respect and cooperate with the resident's representative in the same manner as if it were dealing directly with the resident concerned.
 - c. The village manager/administrator will meet with the complainant and their representative, if any, in order to ensure the issues arising out of the complaint are fully transparent and understood.
 - d. Where the complaint relates to a breach of the village rules, BBRV will investigate and, where considered appropriate, seek compliance with the relevant village rule(s).
 - e. In an endeavour to resolve the issues to the mutual satisfaction of the parties, the complainant is encouraged in the first instance, to talk to the other resident(s) concerned, in a safe, non-threatening and non-judgemental environment.
 - f. In order to enable clear and cordial discussion of the issues, the village manager/administrator will communicate with all residents involved and their representative, if any, proposing a meeting to be mediated by the village manager/administrator.
 - g. Prior to the meeting referred to in point f., each resident will be requested to provide (in writing) the substance of the grievance, as they understand it. This will be communicated to all parties and their representative, if any, prior to the meeting.

- h. Only the affected residents, their representatives, if any, and the village manager/administrator will be permitted to attend the meeting.
 - i. The village manager/administrator will facilitate and mediate the meeting in a village common area and, within three (3) business days, provide a response in writing to the parties with a precis of the outcome.
 - j. This process may necessitate more than one meeting in an endeavour to reach an acceptable resolution of the complaint.
 - k. Where the meeting(s) fail(s) to resolve the complaint and/or one or more of the parties refuses to attend a mediation meeting, either personally or by a representative, the parties will be directed to seek advice in relation to their rights and remedies from the following:
 - i. NSW Fair Trading Tel: 13 32 20 www.fairtrading.nsw.gov.au
 - ii. Law Access NSW Provides free legal information and advice in NSW. Tel: 1300 888 529. www.lawaccess.nsw.gov.au
7. Where a complaint relates to **dissatisfaction with BBRV services, BBRV staff, the handling of a complaint or other matter relating to the administration of a BBRV village or an alleged failure by BBRV to discharge its statutory or other duties or to comply with the Retirement Villages legislation**, the following procedure will be followed:
- a. The complaint must be made in writing to the appropriate BBRV staff member (village manager/administrator or general manager), detailing the full nature of the complaint. This may occur following the meeting referred to in point 7c. but preferably prior to that meeting.
 - b. The complainant is entitled to invite or appoint a representative to act on their behalf. BBRV will respect and cooperate with the resident's representative in the same manner as if it were dealing directly with the resident concerned.
 - c. The village manager/administrator or general manager will meet with the complainant and their representative, if any, in order to ensure that the issues arising out of the complaint are fully transparent and understood. This may occur prior to the lodgement of the document described in point 7a. above but the next steps will not be taken until the written complaint has been received.
 - d. The village manager/administrator or general manager will, within a reasonable period (but subject to the issue(s) involved and the need for external advice), endeavour to address the complaint and provide a written response to the complainant and their representative, if any.
 - e. Where the complainant remains unsatisfied with the outcome, the complainant may (unless the general manager is the subject of the complaint) request that the matter to be escalated to the general manager for further consideration.
 - f. If the complaint is escalated to the general manager then the general manager will review the documentation relating to the complaint and provide a response to the complainant and their representative, if any, within

a reasonable time and in any case within not more than ten (10) business days. The complainant and their representative, if any, has the right to request a meeting with the general manager to discuss the complaint and/or BBRV's response and, if such a request is made, such a meeting must be held within ten (10) business days of receipt of the request.

- g. If the complaint has not been resolved and the complainant/s remain(s) dissatisfied, the complainant/s may follow the Dispute Resolution Procedure set out below. That procedure provides various options to seek to resolve the complaint.
 - h. All BBRV staff will use their best endeavours to support the complainant/s and their representative, if any, to assist in resolving the complaint or the dispute concerned.
8. Where the complaint relates to the **general manager**, the following procedure will be followed:
- a. The complaint must be made in writing to the Chair of the BBRV board detailing the full nature of the complaint.
 - b. The complainant or disputant is entitled to invite or appoint a representative to act on their behalf. BBRV will respect and cooperate with the resident's appointed representative in the same manner as if it were dealing directly with the resident concerned.
 - c. The Chair may appoint a board representative to deal with the matter. The representative must be a member of the BBRV board.
 - d. The Chair or the board representative will meet with the complainant and their appointed representative, if any, in order to ensure that the issues arising out of the complaint are fully transparent and understood. This may occur prior to the lodgement of the document described in 8.a. above but the next steps will not be taken until the written complaint has been received.
 - e. The Chair or the board representative will, within a reasonable period (but subject to the issues involved and the need, if any, for external advice), endeavour to address the complaint and provide a written response to the complainant and their representative, if any.
 - f. Where the complainant remains unsatisfied with the outcome, the complainant may follow the Dispute Resolution Procedure set out below. That procedure provides various options to seek to resolve the complaint.

Dispute Resolution Procedure

1. Where a complaint has not been resolved by the applicable internal complaint management procedure described above or if some other dispute arises, the complainant(s) or the disputant(s), as the case may be, their representatives, if any,

and/or the general manager or the village manager/administrator concerned, can escalate the complaint via the External Dispute Resolution Procedure.

2. The escalation pathway will involve the following stakeholders:
 - a. the complainant(s) and their representative, if any;
 - b. the village manager/administrator; and
 - c. the general manager; or
 - d. if the complaint involves the general manager, the Chair or board representative
3. The seniority of the allocated BBRV representative to handle the dispute should correspond to the seriousness of the dispute and avoid any conflict of interest.
4. When determining how the dispute will be managed, the village manager, administrator, general manager, Chair or board representative, as the case may be, will assess the background and factors that have led to the dispute. The level of risk will be assessed using criteria including the following:
 - a. how serious, complicated or urgent the dispute is;
 - b. whether BBRV has handled the complaint effectively to date and whether the complaint could have been resolved through other avenues before escalating to an external dispute;
 - c. the wellbeing of the complainant/s and staff safety as a result of the unresolved complaint;
 - d. the risks involved if resolution of the complaint or dispute is delayed or not achieved;
 - e. unreasonable complainant conduct, if any;
 - f. unreasonable BBRV personnel conduct, if any; and
 - g. whether external legal counsel is required or recommended.
5. Once a dispute has been assessed, the general manager, Chair or the board representative, as the case may be, is responsible for discussing the current situation with the complainant/s or disputants, as the case may be, and their representative, if any, identifying what is important and, if necessary or appropriate, re-clarifying the outcome that the complainant/s or disputants seeks. Information about the dispute procedure is provided to the parties involved and any further opportunity to resolve the matter internally is also explored.
6. The general manager will initially encourage the complainant/s or disputants and their representative, if any, to participate in an independent third-party mediation process and offer to organise this with a mediator such as the Community Justice Centres (CJC), the Conflict Resolution Service (CRS) or other appropriate organisation. If an external third party mediator is involved, the costs involved will be shared equally.
7. Where the complainant/s or disputant/s refuses mediation, either in person or by their representative(s), or is/are not satisfied with the outcome of the mediation

process, the general manager will provide contact information including about NSW Fair Trading to aid the resident/s in seeking further determination. These may also include other useful contacts such as advocates, legal advisors, senior rights services and the like.

8. Where a complainant/s makes an application for an order to NCAT for non-compliance with the Retirement Villages Act, the general manager is required to notify the BBRV Board immediately.
9. The general manager or the board representative, as the case may be, will remain in contact with the complainant/s or disputants and their representative, if any, (unless otherwise advised by relevant bodies) to provide or receive any updates on any actions that are required as a result of the mediation or tribunal proceedings.
10. Once actions resulting from the mediation, NSW Fair Trading investigation or tribunal proceedings have been implemented or the matter has been settled, the general manager will follow up with the complainant/s or disputants and their representative, if any,.
11. Once the matter has been determined, resolved or settled, the manager/administrator will update the Complaints Register to close the matter.
12. All records of all conversations are kept in the complaint/risk management system. All entries will be made chronologically and will detail the progress of the dispute resolution process, the actions implemented, follow up and closing of the matter.

Compliance, Monitoring, Evaluation and Improvement

1. BBRV will monitor complaints and disputes and will analyse and evaluate the performance of BBRV's Complaints Management Procedure. The Complaints Management Procedure requires regular (at least annual) reporting to the BBRV Board about the nature of complaints and resolution status.
2. BBRV management will ensure that disputes are recorded in a systematic way. Analysis and evaluation of regular reports about disputes are undertaken on a regular (at least annual) basis regarding;
 - a. the number of disputes;
 - b. the outcome of disputes;
 - c. issues arising from disputes; and
 - d. systemic issues identified.
3. Analysis of these reports will be undertaken to monitor trends, measure the quality of customer service and with a view to making improvements within the villages.
4. Reports and their analysis will be provided to the BBRV Board on a regular (at least annual) basis.

Definitions and Terminology

For the purposes of this Policy:

1. A **dispute** may arise from one of the following:
 - a. A complaint from a resident to or about the operator which has not been resolved to the resident's satisfaction; and
 - b. A disagreement between two or more residents.
2. A **complaint** includes:
 - a. a grievance between residents;
 - b. a grievance between a resident/s and the operator; and
 - c. an expression of dissatisfaction made to or about BBRV relating to its facilities, services, staff, or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.
3. A **complainant** is a person making a complaint. The term refers collectively to residents and their nominated representative but does not include members of the public or BBRV. It does not include staff.
4. A **disputant** is a person who is a party to a dispute. The term also refers collectively to residents and their duly nominated representative but does not include members of the public, BBRV or staff.
5. **unreasonable complainant conduct** means any behaviour by a current or former Complainant which, because of its nature or frequency in the opinion of the operator, raises substantial health, safety, resource, or equity issues for the parties to a complainant.

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Updated 11 November 2021