The Association of Residents of Queensland
Retirement Villages Inc.

VILLAGE FINANCIALS

This document, in relation to village financials, aims to:

Section A – assist residents understand:

- their rights;
- the obligations of scheme operators;
- the rights of residents committees; and
- the application of the *Retirement Villages Act 1999.*

Section B – provide a practical guide for residents committees reviewing draft village budgets and financial statements.

Village financials are those things required by the *Retirement Villages Act 1999* (Qld) (**RVA**) and the *Retirement Villages Regulation 2018* (**RVR**) which record and report the financial transactions of a registered retirement village including its budgets and financial statements covering the income, expenditure and funding necessary for its operation. The financials are separated into three funds: the capital replacement fund (CRF), the maintenance reserve fund (MRF) and the general services charges fund (GSCF) each of which is to be used only for the purpose provided by the RVA. It includes the reviews and discussions between the residents committee and the scheme operator necessary to finalise budgets and to ensure the integrity of the financial statements

This document does not include financial matters to which the *Body Corporate and Community Management Act 1997* applies.

The information in this document may be changed without notice.
The latest version is available on the ARQRV website.
April 2021

Village Financials

Disclaimer: The material in this document is provided as information only. It is intended as a guide to best practice for residents in Queensland retirement villages and is not intended to be a substitute for legal or financial advice. It is not intended for use by village operators.

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In this document, references to legislation are references to the *Retirement Villages Act 1999* (Qld) (RVA), unless stated otherwise.

The *Retirement Villages Regulation 2018* is referred to as the RVR.

ATO is the Australian Taxation Office.

Section A – General operation of village financials, obligations of scheme operator and rights of residents committee

1 Introduction to Section A

1.1 Purpose

This document, in relation to village financials, aims to:

Section A – assist residents understand:

a) their rights;

b) the obligations of scheme operators;

c) the rights of residents committees; and

d) the application of the RVA.

Section B – provide a practical guide for residents committees reviewing draft village budgets and financial statements.

1.2 What are village financials?

Village financials are those things required by the RVA or RVR which record and report the financial transactions of a registered retirement village including its budgets and financial statements covering the income, expenditure and funding necessary for its operation. The financials are separated into three funds: the capital replacement fund (CRF), the maintenance reserve fund (MRF) and the general services charges fund (GSCF) each of which is to be used only for the purpose provided by the RVA. It includes the reviews and discussions between the residents committee and the scheme operator necessary to finalise budgets and to ensure the integrity of the financial statements

This document does not include financial matters to which the *Body Corporate and Community Management Act 1997* applies.

1.3 Terminology and definitions

For reader convenience, the terms used in this document are briefly explained below. However, the full definition or further explanation provided by the RVA or the RVR will prevail and must be taken into account.

approved form is a form which is approved by the Chief Executive of the Department of Communities, Housing and Digital Economy and, must be used for a certain purpose under the RVA. A requirement for a document to be in an approved form does not apply if there is no approved form at the time the document is used (ss 227 and 227AA). At the time of publication there are no approved forms in use for the retirement village budgets and financial statements.

budget is an estimate of expected income and expenditure for each fund for a financial year. Each budget must be prepared by the scheme operator in time so that a copy of each may be given to the residents committee at least 14 days before the beginning of the financial year. A ***draft budget*** is a proposed budget before approval and adoption by the scheme operator.

capital improvement is the first-time provision of a capital item, and can include *capital improvements* as defined under ATO rulings (RVA Schedule Dictionary).

capital items include all buildings, infrastructure, plant, machinery and equipment located in the village and owned by the scheme operator, other than items which are to be maintained, repaired and replaced by a resident under a residence contract, freehold units owned by a resident or body corporate property (RVA Schedule Dictionary).

capital replacement fund (CRF) is a fund established for replacing the retirement village's capital items (ss 17 and 91).

capital replacement fund budget is the budget the scheme operator must adopt each financial year, for the operation of the capital replacement fund (s 93).

capital replacement fund contribution is a percentage of a resident's ingoing contribution, decided by the scheme operator and described in the resident's residence contract as a contribution to the capital replacement fund (s 18).

CPI (Consumer Price Index) refers to the all groups consumer price index for Brisbane published by the Australian statistician (s 106(4)).

day-to-day maintenance, of a capital item is the maintenance of the item that is carried out regularly and with little expense (RVA Schedule Dictionary).

financial statement is a report, or a series of reports, that shows the financial activities of a fund established for the village. There are two types of financial reporting: management accounts and annual audited financial accounts.

Management accounts include quarterly financial statements (s 112) that will list the income and expenditure for each fund for that period.

Annual audited financial statements (s 113) will show the actual income and expenditure, the resultant surplus or deficit for each fund, a comparison with the previous financial year, and a statement of assets and liabilities at the end of the year compared to the opening.

Annual audited statements will also include the assets and the liabilities relating to the village at the end of the financial year and interests, mortgages and other charges affecting the retirement village's property at the end of the financial year for each fund. Reports comprising a statement should show separately each major source of income and each major item of expenditure and the resultant surplus or deficit.

Scheme operators are required to supply these upon request to a resident, quarterly and annually. The annual financial statement must be audited, and an audit report issued.

financial year means a period of 1 year beginning on 1 July (*Acts Interpretation Act 1954*). To clarify, it ends on 30 June.

fund is a pool of assets (mainly cash but may include other assets such as, debtors and creditors) that is set aside for a specific purpose. In each village the scheme operator must establish a capital replacement fund, a maintenance reserve fund and a general services charges fund.

general services are services supplied or made available to all residents for the operation of the village (RVA Schedule Dictionary).

general services charge (GSC) is a charge payable by a resident, of an amount decided by the scheme operator under the resident's residence contract, for the general services supplied to residents in the village for a financial year (s 18B). Charges for personal services are not part of general services charges.

general services charge budget is the budget the scheme operator must adopt, each financial year, for the general services charges fund (s 102A).

general services charges fund (GSCF) is a fund established for general services (ss 18A and 102AA).

maintenance, of a capital item is the upkeep of the item in good condition and efficient working order, and can include *maintenance* as defined under ATO rulings (RVA Schedule Dictionary).

maintenance reserve fund (MRF) is a fund established for maintaining and repairing capital items (ss 19 and 97).

maintenance reserve fund budget is the budget the scheme operator must adopt, each financial year, for the operation of the maintenance reserve fund (s 99).

maintenance reserve fund contribution is an amount payable by a resident to the scheme operator, under the resident's residence contract, as a contribution to the maintenance reserve fund (s 20).

QCAT is the Queensland Civil and Administrative Tribunal. It is an independent tribunal that resolves disputes and makes decisions on a range of matters including those relating to retirement villages. QCAT is part of the justice services division of the Queensland Department of Justice and Attorney-General.

quantity surveyor is a tertiary qualified professional who estimates and monitors the costs of construction and maintenance of building and infrastructure, and who preferably is a member of the Australian Institute of Quantity Surveyors. An independent quantity surveyor regularly reports on the expected capital replacement costs and maintenance and repair costs for the village for the next 10 years

repairs, to a capital item means the restoration of the item by fixing or replacing parts of the item, and can include *repairs* as defined under ATO rulings (RVA Schedule Dictionary).

replacement, of a capital item means the substitution of the same type of item or an equivalent item, and can include *replacements* as defined under ATO rulings (RVA Schedule Dictionary).

1.4 Village financials, the residents committee, residents and the law, generally

1.4.1 Residents committee

The RVA and the RVR authorise the involvement of the residents committee in certain financial matters of a village, namely:

1. reviewing draft village budgets provided by the scheme operator (ss 93(3), 99(4), 102A(4))
2. discussing draft budgets with the scheme operator (s 129B)
3. reviewing the quarterly and annual financial statements provided by the scheme operator (s 112, s 113)
4. requesting, from the scheme operator, a written explanation for any increase in the expenditure involved in providing a general service that varies from the expected expenditure in the general services charge budget (s 112A(2)).

Note – any work conducted by a residents committee in relation to village financials is done at the discretion of the residents committee of the day. Residents of a village may wish to include relevant clauses in their constitution (s128) which would ensure the residents committee, subcommittee or an advisory panel (which should include a member of the residents committee) undertakes such work.

1.4.2 Residents

See also Part 4.3.2, 6.2 and 6.5

In addition to the residents committee involvement in financial matters, the RVA authorises all residents to be involved in certain financial matters, namely:

- agreeing by special resolution at a residents meeting to a total general services charge increase above CPI (s106(3))
- approving by special resolution at a residents meeting a new service added to the budget (s 108).

Residents are also authorised by the RVA to ask the scheme operator to provide them with certain financial statements (ss 112 and 113).

1.5 Accounting standards

Accounting for village funds is the responsibility of the scheme operator. They must keep a separate set of financial accounts for each of the three funds (s 111).

The financial accounting and special purpose financial reports must be well-maintained and comply with the RVA, the RVR and where relevant, applicable Australian Accounting Standards.

Although it is not a requirement of the RVA, under the *Corporations Act 2001* (Cth), companies must comply with and use all applicable Australian Accounting Standards when preparing their financial reports. This gives potential users, who make decisions based on those financial reports, an assurance that the reports represent a true and fair view of the companies' affairs without any misleading information.

Those companies which are unlikely to have users relying on their financial reports, such as small private companies with restricted shareholders, are exempt from applying all of the Australian Accounting Standards. They nevertheless must apply minimum Standards such as using double entry and accrual accounting.

Most scheme operators operate through a company structure and are unlikely to fall into the exempt category because residents rely on the financial reports.

1.6 Australian Taxation Office Rulings

The financial reports must also have regard to ATO taxation rulings particularly when allocating expenditure among capital improvement, maintenance, repairs and replacement.

2 General operation of village financials

2.1 Establishing and use of the funds

The RVA requires that a scheme operator must establish and operate three funds for a retirement village; namely, a capital replacement fund (CRF) (s 91), a maintenance reserve fund (MRF) (s 97), and a general services charges fund (GSCF) (s 102AA).

Each fund must be applied to, or be used for, only that purpose for which the fund is established. Of note, the funds must not be used for any capital improvement or running development of the village.

2.2 Residents committee reviewing draft budgets and expenditure for each fund

Before the commencement of each financial year, the residents committee may request, from the scheme operator, a copy of the draft budgets, for review (ss 93(3), 99(4), 102A(4)). If requested by the residents committee the scheme operator must attend a residents committee meeting to discuss the draft budgets (s 129B). Certain timeframes apply to these procedures. By way of example, matters which may be raised are, but not limited to, the following:

- both the CRF and MRF budgets must take into account the quantity surveyor's estimated costs over the next 10 years (s 92, s 98)
- the GSCF budget must comply with s106 which limits the increase in the total general services charge
- in the MRF and GSCF budgets, any surplus or deficit from the previous year must be *carried forward and taken into account* (s 99(7), s 102A(7))
- any new general services funded by residents must be approved by residents (s 108).
- before increasing the cost to residents of any service, the operator must consider whether any more cost-effective alternatives exist (s 107A)
- whether the scheme operator has allocated expenditure against the appropriate fund.

As each item of expenditure is incurred during the operation of the village, the scheme operator must debit the amount against the appropriate fund and the appropriate budgeted item. To achieve this, they must correctly identify the category of expenditure based on the purpose of the expenditure and various other considerations. (Note Part 7 below regarding Classification of Expenditure and the future possibility for Model Classification Rules under s 113A).

2.3 Residents committee reviewing income to and expenditure from each fund

The residents committee (and any other resident) may request for review, from the scheme operator, copies of quarterly financial statements (s 112) or annual financial statements (s 113) detailing the income and expenditure for each fund. The residents committee should review these for any issues such as:

- where the scheme operator operates multiple villages that each expense is allocated to the correct village
- that each item of income and expenditure is allocated against the correct fund
- if expenditure for any general service has increased by more than that budgeted (and if so whether an explanation should be requested under s 112A)
- if the income and expenditure for each fund are consistent with the budget.

The points above are explained further in Part 10 below.

3 Capital replacement fund

3.1 Establishment of CRF and the fund generally – s 91

3.1.1 Establishment of CRF and the account for the CRF

A scheme operator must establish and keep a CRF. The scheme operator is solely responsible for contributing to the CRF.

The monies of the CRF must be kept in a separate bank account established and kept for only the purpose of the fund.

The name or style of the bank account for the CRF must include the operator's name, the name of the village scheme followed by the words 'secured capital replacement fund account'.

3.1.2 Use of CRF

The amount standing to the credit of the CRF must only be applied or used for the following purposes:

- replacing the village's capital items (see definitions of *capital item* and *replacement* in RVA Schedule Dictionary)
- paying the quantity surveyor's reasonable fees for giving a report about the expected capital replacement costs for the next 10 years
- paying tax on amounts paid into the fund on the interest from fund investment.

A person who applies or uses an amount in contravention of the above commits an offence and a penalty applies.

The CRF must not be used for the village's *capital improvement*, *maintenance*, or *repairs* (as defined in the RVA Schedule Dictionary). In a freehold village, the fund must not be used for capital replacement, maintenance or repairs of body corporate property to which the *Body Corporate and Community Management Act 1997* applies.

3.1.3 Security of CRF

The CRF is secured by a *statutory charge*[1] created over it for the benefit of the residents of the village. The statutory charge has priority over any other charge against the fund given by the scheme other than a charge created and given priority under a Commonwealth or State law. Regardless of who controls the scheme's operation, the statutory charge is irrevocable and continues until the village ceases operation or all residents have been paid their exit entitlement.

[1]*A **statutory charge** is a legal mechanism provided for, by an Act, to enforce an action or to afford security in the case of a certain matter. In this case, ss 91(6) and (7) provide a level of security to the CRF.*

3.2 Amount of CRF – s 92

3.2.1 Quantity surveyor's report

Every third financial year after the 2009 financial year (so therefore, applies in 2021, 2024 and 2027 etc), and in any other financial year where there have been substantial changes made to the village, a scheme operator must obtain a full written report from an independent quantity surveyor about the expected capital replacement costs for the next 10 years.

In each financial year, other than where a full report is required, an updated report must be obtained.

The legislation is not clear about the sequence of full written reports if one has to be obtained in intervening years because of substantial changes or village completion after 2009. However, it does imply that the original update schedule should be maintained.

3.2.2 Deciding the amount in CRF

The scheme operator must decide the amount (the *capital replacement reserve*) to be held in the CRF having regard to the fund's purpose and the quantity surveyor's report (s 92(3)). The scheme operator's decision must be directed at ensuring there is sufficient money reserved in the fund to meet the fund's purpose of covering replacement of capital items over the next 10 years.

In having regard to the quantity surveyor's report, the scheme operator must use their best endeavours to implement the recommendations in the report in the context of the objects of the RVA (see s 3) and any other relevant circumstances apparently not considered by the quantity surveyor (s 92(4)).

This means that, when the scheme operator is deciding the amount in the fund, they are permitted to take into account matters which may adversely affect their overall continued growth and viability (see s 3(1)(b)). However, the scheme operator should be able to demonstrate how it has used its best endeavours to implement the recommendations and be able to justify where it has not done so.

3.2.3 Insufficient amount in CRF

If the amount a scheme operator must spend on capital replacement at any time is more than the amount held in the CRF, the operator must pay the difference between the actual amount to be spent and the amount held in the fund (s 92(6)).

3.3 CRF budget – s 93

3.3.1 Deciding and adopting CRF budget

The scheme operator must adopt, in the approved form (where one is approved), a CRF budget for each financial year for the fund.

The CRF budget must:

- allow for raising a reasonable capital amount to:
  - provide for necessary and reasonable spending for the financial year; and
  - reserve an appropriate proportional share of amounts necessary to be accumulated to meet anticipated major expenditure over at least the next 9 years after the financial year; and
- fix the amount to be raised by way of capital replacement fund contribution to cover the capital amount mentioned above.

Refer to s 93(2) for an example.

3.3.2 Residents committee reviewing and discussing draft CRF budget with scheme operator

The residents committee may also, by written notice given to the scheme operator at least 28 days before the beginning of the financial year, ask the scheme operator to give the residents committee a copy of the draft CRF budget for the financial year, at least 14 days before the beginning of the financial year.

The residents committee may, by written notice given to the scheme operator at least 28 day before the start of a financial year, ask the scheme operator to attend a meeting of the residents committee that is to be held before the start of a financial year to discuss the CRF budget (s 129B).

The scheme operator must comply with the above notices.

3.4 Payments into the CRF – s 94

The scheme operator is not limited as to the amounts paid into the CRF. The scheme operator must not pay into the CRF any amount which must be properly paid into another fund.

The scheme operator must ensure that the following amounts are paid into the capital replacement fund—

- the capital replacement fund contribution
- interest from investment of amounts held in the fund
- amounts received under insurance policies for the destruction of items of a capital nature
- if an *existing residence contract* (pre 1 July 2000) requires an amount from a resident’s services charge to be paid towards capital replacement—
  - if the amount is stated in the contract—the amount; or
  - if the amount is not stated in the contract—the amount decided by the operator worked out in the way stated in a public information document

- any amount paid by a resident who is responsible for replacing a capital item because of deliberate damage or accelerated wear caused by the resident (see s 96).

There are penalties for scheme operators who do not comply with the requirements above.

3.5 Restriction on investing CRF – s 95

A scheme operator must not invest the monies of the CRF other than in an authorised investment under the *Trusts Act 1973*. Note – this section only restricts the way the CRF is invested. It does not prescribe the fund must be held in a trust account for the benefit of residents, but rather, it prescribes that an investment may be made in any manner allowed by the Trusts Act. The security of the fund is by the statutory charge created under s 91 and not by a trust.

There are penalties for scheme operators who do not comply with the requirements above.

4 Maintenance reserve fund

4.1 Establishment of MRF and the fund generally – s 97

4.1.1 Establishment of MRF and the account for the MRF

A scheme operator must establish and keep an MRF. The residents are solely responsible for contributing to the MRF (subject to the operator's obligations under ss 104 and 105 – see Parts 5.7 and 5.8). The monies of the MRF must be kept on trust for the benefit of residents in a trust bank account established and kept for only the purpose of the fund. The account must require that withdrawals from it, whether by cheque or otherwise, be signed by the scheme operator.

There are penalties where the scheme operator does not comply with the above.

4.1.2 Use of MRF

The amount standing to the credit of the MRF must not be used for a purpose other than:

- maintaining and repairing the village's capital items (see definitions of *capital item*, *maintenance* and *repairs* in the RVA Schedule Dictionary)
- paying the quantity surveyor's reasonable fees for giving a report for section 98
- paying tax on amounts paid into the fund from interest on investments belonging to the fund.

There are penalties where the scheme operator does not comply with the above.

Without limiting the above, the scheme operator must not use the MRF for:

- the cost of *day-to-day maintenance* (as defined in the RVA Schedule Dictionary) of the village

- the village's *capital improvement* or *replacement* of capital items (as defined in the RVA Schedule Dictionary)
- capital replacement, maintenance or repairs of body corporate property to which the *Body Corporate and Community Management Act 1997* applies.

There are penalties where the scheme operator does not comply with any of the above.

4.1.3 Security of MRF

Regardless of any change in who controls the scheme's operation, the trust is irrevocable and continues until the village ceases to operate as a retirement village scheme, and all former residents have been paid their exit entitlement.

4.2 Amount of MRF – s 98

4.2.1 Quantity surveyor's report

Every third financial year after the 2009 financial year (so therefore applies in 2021, 2024 and 2027, etc), and in any other financial year where there have been substantial changes made to the village, a scheme operator must obtain a full written report about the expected maintenance and repair costs for the next 10 years, from an independent quantity surveyor, before the scheme operator decides the MRF budget.

In each financial year, other than where a full report is required, only an updated report needs to be obtained. The legislation is not clear about the sequence of full written reports if one has to be obtained in intervening years because of substantial changes or village completion after 2009. However, it does imply that the original update schedule should be maintained.

4.2.2 Deciding the amount in the MRF

The scheme operator must decide the amount to be held in the MRF (the maintenance reserve) having regard to the fund's purpose and the quantity surveyor's report.

4.2.3 Insufficient amount in MRF

If the amount to be spent on maintenance or repairs at any time is more than the amount held in the MRF, the operator must pay the difference between the actual amount to be spent and the amount held in the fund. The funds contributed by the scheme operator is to be treated as an interest free loan to the MRF to be repaid by residents' contributions.

4.3 MRF budget – s 99

4.3.1 Deciding and adopting MRF budget

The scheme operator must adopt, in the approved form (where one is approved), an MRF budget for each financial year for the fund. The budget must be consistent with, and implement any recommendations in, the quantity surveyors report except for any part of the MRF budget that has been agreed to by a special resolution of residents.

The MRF budget must:

- allow for raising a reasonable amount for maintenance and repairs —
    - to provide for necessary and reasonable spending from the MRF for the financial year; and
    - reserve an appropriate proportional share of amounts necessary to be accumulated to meet anticipated major expenditure over at least the next 9 years after the financial year; and
- fix the amount to be raised by way of contribution to cover the estimated recurrent expenditure mentioned above.

See s 99(3) for an example.

4.3.2 Residents committee reviewing and discussing draft MRF budget, with scheme operator

The residents committee may, by written notice given to the scheme operator at least 28 days before the beginning of the financial year, ask the scheme operator to give the residents committee a copy of the draft MRF budget for the financial year, at least 14 days before the beginning of the financial year.

There are penalties where the scheme operator does not comply with the notice.

The residents committee may also, by written notice given to the scheme operator at least 28 day before the start of a financial year, ask the scheme operator to attend a meeting of the residents committee that is to be held before the start of a financial year to discuss the MRF budget (s 129B).

The scheme operator must comply with the notice, but penalties do not apply.

A resident also has authority, to request and be given a copy of the draft budget, under the same conditions as a residents committee (s 99(4)). However, there is no legislative authority for a resident to request the scheme operator to attend a meeting to discuss the draft budget

4.3.3 Surplus or deficit at end of financial year

If, at the end of a financial year for which a budget for the MRF is adopted, there is a surplus or deficit, the surplus or deficit in the maintenance reserve fund must be carried forward and taken into account in adopting the maintenance reserve fund budget for the next financial year.

Because the budget is prepared before the end of the current financial year the surplus or deficit for the year will not be known. The scheme operator should estimate the final surplus or deficit by forecasting the June quarter results and adding that to the actuals for the nine months to the end of March.

4.4 Payments into MRF – s 100

The scheme operator must ensure that the residents' MRF contributions, and interest received on investments belonging to the fund are paid into the MRF. However, this does not limit the amounts a scheme operator may pay into the maintenance reserve fund.

The scheme operator must not pay into the MRF amounts that are properly payable into another fund.

There are penalties for scheme operators who do not comply with the requirement above.

4.5 Restriction on investing MRF amounts – s 101

A scheme operator must not invest the monies of the MRF other than in an authorised investment under the *Trusts Act 1973*.

There are penalties for scheme operators who do not comply with the requirement above.

5 General services charges fund

5.1 Establishment of GSCF and the fund generally – s 102AA

A scheme operator must establish and keep a GSCF. The fund must not be used for a purpose other than providing general services.

There are penalties for scheme operators who do not comply with the requirement above.

5.2 GSC budget – s 102A

5.2.1 Deciding and adopting GSC budget

The scheme operator must adopt, in the approved form (where one is approved), a GSC budget for each financial year for the fund.

The GSC budget must:

- allow for raising a reasonable amount to provide the general services for the financial year (see definition of *general services*); and
- fix the amount to be raised by way of contribution to cover the amount.

5.2.2 Residents committee reviewing and discussing draft GSC budget, with scheme operator

The residents committee may, by written notice given to the scheme operator at least 28 days before the beginning of the financial year, ask the scheme operator to give the residents committee a copy of the draft GSC budget for the financial year, at least 14 days before the beginning of the financial year.

The residents committee may also, by written notice given to the scheme operator at least 28 day before the start of a financial year, ask the scheme operator to attend a meeting of the residents committee that is to be held before the start of a financial year to discuss the draft GSC budget (s 129B).

The scheme operator must comply with the above notices.

One of the residents committee's primary concerns when reviewing the draft GSC budget should be ensuring that it complies with the CPI restriction under ss 106 and 107 (see Part 5.4 below).

The RVA does not require the scheme operator to seek approval of the GSC budget from the residents committee (or residents generally) before it is implemented. Residents will only have an opportunity to vote in relation to the GSC budget if the scheme operator needs a special resolution under s 106 (see Part 5.4 below).

There is no provision in the RVA for an individual resident to obtain or query a draft GSC budget (but an individual resident can use the dispute resolution processes under the RVA to enforce the requirements in the RVA regarding the GSC budget, like ss 103, 106, 107A and 108).

5.2.3 Surplus or deficit at end of financial year

If, at the end of a financial year for which a budget for the GSC budget is adopted, there is a surplus or deficit, the surplus or deficit in the GSC Fund must be carried forward and taken into account in adopting the GSC budget for the next financial year.

Because the budget is prepared before the end of the current financial year the surplus or deficit for the year will not be known. The scheme operator should estimate the final surplus or deficit by forecasting the June quarter results and adding that to the actuals for the nine months to the end of March.

The above is explained further in Part 9.4 below.

5.3 Working out and paying GSC –ss 103 to 105

5.3.1 Restrictions on inclusions for GSC

A resident must not be charged more than an amount worked out in the way stated in their residence contract (s 103(1)). A contract term outlining the method of calculation must not be inconsistent with the provisions of the RVA and terms that are inconsistent have no effect (s 45).

For residents who entered into their residence contracts after 1 July 2000, the general service charge must not include an amount or component, however described, towards replacing capital items of the village (s 103(3)).

The scheme operator must not include, or provide for, in a general service charge an amount or component, however described, that is payable for or towards—

- costs awarded by the QCAT against the scheme operator; or
- legal costs incurred by the scheme operator in relation to a retirement village issue (s 103(7)). This is important as scheme operators have, in the past, sought to dissuade residents from raising disputes about budgets by threatening to pass on to all residents via the GSC their legal costs in relation to the dispute (which can be significant).

There are penalties for scheme operators who do not comply with the requirements above.

5.3.2 GSC and GST

Despite the contents of a residence contract, the resident may be required to pay an amount directly or indirectly attributed to GST for the supply by, or to, the scheme operator for general services (s 103(6)).

5.4 CPI restriction on the GSC – ss 106 and 107

When a scheme operator prepares the budget under s 102A for a financial year, they must ensure that the total general services charge complies with the CPI[1] restriction in s 106.

The process for applying the CPI restriction has been clarified as a result of amendments to ss 106 and 107 that commenced on 11 November 2019. In the past, the CPI restriction was often applied incorrectly to the total of anticipated expenditure in the budget (excluding items that increased in accordance with s 107 or with the approval of residents by special resolution).

However, the RVA is clear that the CPI restriction applies to the *total general services charge* in the budget (**total GSC**), which is the total amount to be levied from residents in accordance with the budget The total GSC in the budget must not increase beyond the total GSC from the previous financial year by more than the *CPI percentage increase* (which is the increase in the CPI over the previous financial year). This is consistent with the view of the Department of Communities, Housing and Digital Economy and with court decisions (Australian Retirement Homes Ltd v Ash [2013] QCA 355 and Scouller v Stockland Property Services Pty Ltd [2017] QCAT 347) that the cap under s106 applies to the amount of the charge payable by residents that is calculated under the budget, and is not a cap on the total expenditure for supply of general services in the budget.

However, the CPI restriction does not apply to the extent the increase in the total GSC:

- has been agreed to by the residents by special resolution; or
- is attributable to the circumstances detailed in s 107, i.e.:
    - an increase in rates, taxes or charges levied under an Act in relation to the retirement village land or its use; or

- an increase in the salary or wages of a person engaged in the retirement village's operation and payable under an award, certified agreement or other industrial instrument made, approved, certified or continued in force under the *Industrial Relations Act 2016* or a Commonwealth Act; or
- an increase in insurance premiums, or insurance excesses paid, in relation to the retirement village or its use; or
- the full amount of the expense incurred by a manager, or the full amount charged by a manager, that must be paid from the GSC fund where the manager was appointed by a management order of the District Court.

[1]***CPI** means the all groups consumer price index for Brisbane published on the Queensland Government Statistician's Office web site.*

At the time the budget is prepared, the CPI figures for the 4th quarter of the current financial year are not yet known, so to determine the *CPI percentage increase* the RVA requires that the CPI figures published for the 3rd quarter are used (s 106(4)). The CPI for the 3rd quarter of the current financial year is compared with the corresponding CPI from 12 months earlier, and the percentage increase over that 12-month period determines the permitted increase in the total GSC under s 106.

The above matters are explained further in Part 9.4 below.

5.5 Considering more cost-effective alternatives – s 107A

Before increasing the amount included in a general services charge that relates to the provision of a particular general service, the scheme operator must consider whether there is a more cost-effective alternative to the general service.

Note that the above only applies where an increase in the general services charge is proposed as a result of an increase in the anticipated cost of providing a particular general service in the draft GSC budget. It does not mean that the scheme operator is obliged to comply with this provision during the term of an adopted budget. This is because the general services charge is determined by the budget and fixed for its term.

The actual expenditure on a service may vary from the budget during the term of the budget. Any increase in expenditure on a service during the term of the budget can be monitored via the quarterly reports under s 112, and an explanation can be sought by the residents committee for any spending **beyond** budget under s 112A. An increase in expenditure beyond budget may contribute to a deficit to be carried forward in the next financial year under s 102A(7).

5.6 New services – s 108

5.6.1 How new services can be introduced

A scheme operator may only supply a new service (i.e. a service not already provided in the village) for which a services charge will, or may be, imposed if the residents agree to it by special resolution. This does not apply to a personal service, a service introduced under s 107A as a cost-effective alternative to an existing service, or a service that was foreshadowed in the residence contracts of all residents.

5.6.2 Quotes for new services

The scheme operator must get at least 2 quotes for supplying the service from qualified tradespersons appropriate for the service except for exceptional reasons where it is not practical to get more than one quote. Costs associated with getting a quote must be paid by the scheme operator.

The scheme operator must promptly give residents copies of the quotes (or, if the quotes are voluminous, summaries of the quotes and advice about where the complete quotes may be inspected).

5.6.3 Capital improvement required – s 108(7)

If any capital improvements are required for the scheme operator to supply the new service, the scheme operator may supply the service only if the capital improvements are requested by the retirement village residents by special resolution under s 90B. All the residents of the retirement village when the vote was taken are jointly responsible for the cost of the capital improvement.

This provision does not, on its face, give operators the option to fund the capital improvement themselves but, if they elected to do so, it is unlikely any residents would raise a dispute.

5.6.4 Charge for a new service

The operator may not charge the residents for the new service before the service is supplied to the residents.

5.7 GSC and MRF contributions for former residents – s 104

After a resident leaves a village, they are still required to pay the GSC and MRF contribution for their unit until it is on-sold to a new resident, subject to one of the following limitations:

- for residence contract entered into after 1 July 2000, their obligation to pay the **full** GSC and MRF contribution ends 90 days after they vacated the unit, and for the subsequent 6 months the full cost is shared between the former resident and the scheme operator in the same proportion as they share in the gross ingoing contribution on the sale of the right to reside, as provided for in the residence contract (i.e. the resale value or price) for the unit when it is on-sold; or
- for residence contracts entered into before 1 July 2000, the obligation to pay the GSC and MRF contribution ends 9 months after the date they vacated the unit (i.e. the date unit was emptied of their possessions and the keys were returned to the scheme operator)

In either case, 90 days after the unit is vacated the scheme operator may accrue the former resident's GSC and MRF contributions as an interest-free debt to the operator to be deducted from their final exit entitlement.

5.8 GSC and MRF contributions for unsold rights to reside in units– s 105

A scheme operator must pay, for the relevant number of days in the financial year, the general services charges and maintenance reserve fund contributions for:

- new accommodation units that have not been occupied under a residence contract;
- accommodation units which are under construction or existing units being renovated; and
- existing accommodation units where the former resident's obligation to pay or contribute, under s 104, has ended.

6 Financial accounts and statements

6.1 Separate accounts for funds – s 111

A scheme operator must ensure a separate set of financial accounts is kept for each fund of the retirement village (i.e. the GSCF, CRF and MRF).

There are penalties for scheme operators who do not comply with this requirement.

6.2 Quarterly financial statements – s 112

A resident (which obviously includes a residents committee member) may ask the scheme operator for a quarterly financial statement for:

- 1 or more completed quarters of the current financial year; or
- 1 or more quarters of the last 2 completed financial years.

Within 28 days after receiving the request, the scheme operator must provide a quarterly financial statement for each quarter that:

- lists, for the quarter, the income of, and expenditure from:
    - the capital replacement fund;
    - the maintenance reserve fund;
    - the general services charges fund; and
- has been audited or is in a form that is capable of being audited; and
- is in the approved form (where one is approved).

There are penalties for scheme operators who do not comply with the requirement above.

The scheme operator is not prevented from giving a resident a quarterly financial statement for a quarter other than a quarter mentioned above.

6.3 Residents committee and financial statements

The actions the residents committee should take in relation to the financial statements is explained in Section B below.

6.4 Explanation of increase in general service charge – s 112A

Where the quarterly statements show an increase in the expenditure involved in providing a general service beyond the expected expenditure for the general service in the GSC budget, the residents committee may ask the scheme operator for an explanation for the increase.

As soon as practicable after receiving the request, the scheme operator must give the committee a document that explains the increase.

There are penalties for scheme operators who do not comply with the requirement above.

There is nothing to prevent a scheme operator providing, to the residents committee, an explanation of any other expenditure for a general service but, they are not obliged by the RVA, to do so. It could for example, be important to seek an explanation of a decrease in expenditure for providing a general service.

6.5 Annual financial statements – s 113

A scheme operator must ensure an audited annual financial statement, in the approved form (where one is approved), is given, on request, to a resident (which obviously includes a residents committee member) within 5 months after the end of each financial year, showing the following particulars:

- income and expenditure of the CRF, the MRF and the GSCF, in separate reports, for the financial year;
- amounts received for insurance claims relating to the retirement village during the financial year;
- assets and liabilities relating to the retirement village as at the end of the financial year; and
- interests, mortgages and other charges affecting the retirement village's property as at the end of the financial year.

There are penalties for scheme operators who do not comply with the requirement above.

The scheme operator must ensure the financial statement is audited and an audit report issued under Australian Auditing Standards by any of the following:

- a member of CPA Australia who holds a current public practice certificate issued by CPA Australia;
- a member of The Institute of Chartered Accountants in Australia who holds a current public practice certificate issued by the Institute;

- a member of the Institute of Public Accountants who holds a current public practice certificate issued by the Institute; or
- a registered company auditor.

The scheme operator must also give a copy of the statement to the chief executive of the Department of Communities, Housing and Digital Economy within 5 months after the end of each financial year.

There are penalties for scheme operators who do not comply with the requirement above.

7 Classification of expenditure (model classification rules) – s 113A

This provision of the RVA (s 113A) states that the RVR may prescribe *model classification rules* to determine how village expenditure is to be classified. However, no such rules had been prescribed at the time of writing.

The model classification rules may:

- classify how a particular item of expenditure must be dealt with (i.e. debited to the CRF, MRF or GSCF), and
- require scheme operators to classify how other items of expenditure must be dealt with.

A scheme operator will need to comply with the model classification rules in dealing with items of expenditure.

If the model classification rules require scheme operators to classify how certain items of expenditure will be dealt with, each scheme operator must give the residents written notice of the classification by:

- giving the notice to the residents committee; or
- if there is no residents committee—putting the notice in a place in the retirement village where it is likely to be seen by most of the residents of the village.

Section B – Practical guide for residents committees when reviewing draft village budgets and financial statements

8 Introduction to Section B

8.1 Background

Section B is a practical guide for residents committees when reviewing draft village budgets and financial statements.

Before applying the procedures described in this section, you must first read Section A, which provides background material, legal requirements, underlying legislative authority and the relevant accounting standards.

8.2 Accounting standards, ATO rulings and approved forms

See Parts 1.5 and 1.6 above.

A budget or a financial statement must be prepared in the approved form. This does not apply where a form has not been approved (see above Part 1.3 – *Approved form*). At the time of publication there are no approved forms under the RVA for use for the CRF, MRF, or GSC budgets or quarterly and annual financial statements.

8.3 Advisory panel or subcommittee

It is good practice for the residents committee to form a separate advisory panel or sub-committee, consisting of (say) 3 or 4 residents with accounting, financial or analytical skills, to carry out reviews of the budgets, annual financial statements and quarterly financial statements on the residents committee's behalf. Typically, the treasurer of the residents committee should be a member to keep the residents committee informed and to recommend action suggested by the panel or subcommittee. Only the residents committee is authorised by the RVA to:

- request copies of all 3 draft budgets (ss 93(3), 99(4), 102A(4));
- request the scheme operator to attend a meeting about the budgets (s 129B), and
- ask for a written explanation about an increase in the expenditure on a general service beyond the expected expenditure in the GSC budget (s 112A).

9 Budgets

9.1 Budgets generally

In advance of each financial year, the scheme operator must prepare draft budgets for the MRF, CRF and GSCF. If requested by the residents committee at least 28 days before the beginning of the financial year, the operator must provide the drafts to the residents committee at least 14 days before the beginning of the financial year. It is good practice for the scheme operator to prepare them earlier than this so that there is ample time for the residents committee to review them and negotiate any concerns with the scheme operator.

9.1.1 Draft budget review by residents committee – a snapshot

Time	Action	Notes
Well before new financial year	Residents committee establish a budget financial advisory panel or a subcommittee	Only where needed and include treasurer or another member of the residents committee
About 45 days before new financial year	Peruse this document, *Village Financials*	To understand the rights and obligations of parties and the associated procedures
More than 28 days before new financial year	Residents committee asks scheme operator for all three draft budgets (ss 93(3), 99(4), 102A(4))	CRF, MRF and GSC draft budgets asked for as early as possible
	Residents committee asks scheme operator to attend a meeting to discuss draft budgets (s 129B)	
At least 14 days before new financial year	Scheme operator to provide draft budgets to residents committee (ss 93(3), 99(4), 102A(4))	
After budgets provided to residents committee	Review of draft budgets by either the residents committee, the financial advisory panel and/or the subcommittee	To be done expediently. Ensure GSC budget complies with ss 106 and107 and assess if a special resolution is required
After review of budgets	Financial advisory panel or subcommittee to fully brief residents committee	Where relevant and to be done expediently
After briefing of residents committee	Residents committee (and financial advisory panel or subcommittee, if relevant) meets with scheme operator for discussion/ negotiation	As soon as practical for parties and, include all residents committee members as it is a residents committee meeting
At least 21 days before any special resolution vote under s 106	Notice of residents meeting to consider a special resolution vote by residents	If required and if scheme operator has not already given the notice observing period of notice for the meeting
At residents meeting	Vote on special resolution	
Before budget is decided	Negotiation continues to resolve as many issues as possible	
Before new financial year commences	Budget finalised	

9.2 Capital replacement fund (CRF) budget

See also Part 3 above.

9.2.1 Quantity surveyor's report

The scheme operator is solely responsible for contributing to the CRF. (A minor exception relates to residence contracts entered into prior to 1 July 2000. If such a contract requires the resident to contribute to the CRF via their regular levies, then the operator can require that contribution to continue).

Before preparing the CRF budget for a financial year, the scheme operator must obtain a quantity surveyor's report (which will either be a full report or an updated report depending on the requirements of s 92(2)).

The quantity surveyor's report will set out their assessment of the funding requirements for the *replacement* of capital items identified in the report based on the following:

- the current condition of the item,
- its suitability for its intended function,
- its life expectancy,
- its age, and,
- the current and future replacement cost.

The scheme operator must decide the amount to be held in the CRF having regard to the fund's purpose and the quantity surveyor's report. The amount is known as the *capital replacement reserve* (CRR)

Section 93 requires that the annual CRF budget must be in the approved form (if there is one) and must:

(a) allow for raising a reasonable capital amount to:

1. meet the expected expenditure for the next financial year; and
2. reserve an appropriate *proportional share of anticipated major expenditure over at least the next 9 years* after the financial year; and

(b) fix the amount to be raised by way of the CRF contributions to cover that amount.

To assist with the above requirements, the quantity surveyor's report will show the current cost of replacement of each capital item, its age and life expectancy and, based on average building construction cost inflation rates the estimated annual capital replacement expenditure (capex) each year over (at least) the next 10 years (including the coming financial year) for those items. It would normally also include the quantity surveyor's estimated fees which are paid from the CRF.

Because the quantity surveyor has the expertise and the required data it is advisable that the quantity surveyor is requested to also include in the report a recommendation on the required CRR.

The *proportional share of anticipated major expenditure over the next 9 years* can be best explained by the example given under s93(2) (b):

> Replacing a village stand-by electricity generator is anticipated to be necessary in 3 years' time at a cost currently estimated at $60,000. The contribution amount for the capital replacement fund in the budget for the financial year must therefore include the annual proportional share for its replacement of $20,000. Next year, the estimated cost has increased to $68,000 and so the second-year amount will be $24,000. The estimated cost in the third year is $70,000, so with the $44,000 accumulated, a further $26,000 is necessary to meet the cost.

9.2.2 Capital replacement reserve (CRR) and the contribution to the CRF

The scheme operator must use their best endeavours to implement the quantity surveyor's CRR and other recommendations, and any circumstances relevant to the village apparently not considered by the quantity surveyor.

Each financial year the scheme operator has to decide the CRR which will fix the amount to be raised to meet expected expenditure for replacing capital items in that year (the budget year) plus reserve appropriate proportional amounts for capital item replacements for at least an additional 9 years taking into account when each replacement is due.

The residents committee should check that the proposed CRF contributions fixed by the budget are sufficient to reach the CRR within the required timeframe (if it has not already been reached) or to maintain it at the required level. It may be necessary to consider other income to the fund, such as anticipated interest from investments, any expected insurance claim receipts and any residents' contributions from contracts pre 1 July 2000.

If the amount in the CRF is less than the CRR, the operator must determine the annual contributions required to reach that minimum within the time frames specified in s 92(5) (i.e. within 10 years for a village older than 5 years, or within 5 years for a village younger than 5 years). The operator can adjust the capital replacement fund contribution annually to ensure the CRR is reached within the relevant timeframe.

Although it is not specified in the RVA, the draft capital replacement budget which is available to the residents committee on request should include access to the quantity surveyor's report which should include an explanation of the methodology used to determine the recommended CRR.

9.3 Maintenance reserve fund (MRF) budget

See also Part 4 above.

The MRF budget is separate to the GSCF budget. Residents are solely responsible for contributing to the MRF (subject to the operator's obligations in relation to vacant, new or future accommodation units under ss 104 and 105) so a residents committee may want to scrutinise the MRF budget more closely than the CRF budget.

Before preparing the MRF budget for a financial year, the scheme operator must obtain the quantity surveyor's report (which will either be a full report or an updated report depending on the requirements of s 98(2)).

The quantity surveyor's report should set out their assessment of the funding requirements for *maintaining* and *repairing* the capital items identified in the report. (The report should exclude expenditure on *day to day maintenance* of the village, which is defined in the RVA as maintenance *that is carried out regularly and with little expense*, and is paid from the GSCF. The distinction between *day to day maintenance* and *maintenance* under the MRF is not always clear and residents committees should refer to the ARQRV's *Guidelines to Classification of Expenditure* for further clarification).

The quantity surveyor's assessment is based on similar criteria to the CRF except that it is related to *maintenance* and *repair* of each category of capital items and not their *replacement*.

The quantity surveyor's report should show, for each capital item, the current cost of expected repairs and maintenance and, based on average cost inflation rates, the actual expected annual expenditure over (at least) the next 10 years. It would normally also include the quantity surveyor's estimated fees which are paid from the MRF

The operator must decide the minimum amount required in the MRF, known as the *maintenance reserve* (MR), having regard to the quantity surveyor's report and the purpose of the MRF. The operator has less freedom to depart from the surveyor's report than they do with the CRF.

If the amount in the MRF is less than the MR, the operator must determine the annual contributions required to reach that minimum within the time frames specified in s 98(4) (i.e. within 10 years for a village older than 5 years, or within 5 years for a village younger than 5 years). The operator can adjust the MRF contribution annually to ensure the MR is reached within the relevant timeframe.

The annual MRF budget (s 99) must be in the approved form (if there is one) and must be consistent with the recommendations in the quantity surveyor's report (unless residents approve a departure from that report by special resolution). The budget must also:

(a) allow for raising a reasonable amount to meet the expected expenditure on maintenance and repairs for the next financial year and a proportional share of the next 9 years; and

(b) fix the amount to be raised by way of the MRF contributions to cover that amount.

The residents committee should ensure the proposed MR and the MRF budget are consistent with the quantity surveyor's report. They should also check that the proposed MRF contributions fixed by the budget are not higher than necessary to reach the MR within the required timeframe (if it has not already been reached) or to maintain the MRF at the required level.

The aim should be to ensure that the balance in the MRF at year end does not reduce below the minimum MR figure in any of the projected 10 years. The purpose is to accommodate any major fluctuations in expenditure and to achieve this by annual contributions that do not fluctuate excessively from year to year. In normal circumstances the contributions should show steady increases each year and not become an unacceptable burden to residents. (See also Part 4.3.1 above).

It will also be necessary for the residents committee to scrutinise any surplus or deficit that is carried forward from the previous year (in accordance with s 99(7)) to ensure they have not resulted from the operator overspending, underspending or allocating expenses to the MRF that belong to the CRF.

9.4 General services charge (GSC) budget

See also Part 5 above.

The contributions to the GSCF are primarily the responsibility of the residents. The operator also has an obligation to contribute for certain vacant, new or future accommodation units under ss 104 and 105, and may also contribute to the fund for commercial reasons.

The GSC budget is used to determine the *total general services charge* (**total GSC**) to be paid by residents and therefore should be carefully reviewed by residents committees. This is one financial matter in which most residents are intensely interested.

An important principle is that the operator may only *allow for raising a reasonable amount to provide the general services* (s102A). In other words, the operator is not permitted to make a profit via the GSCF but rather must operate the fund on a cost recovery basis.

9.4.1 Income to the GSC budget

The income can come from the following sources.

The GSC paid by residents

This is the periodic levy payable by residents that must be calculated in accordance with their residence contracts. It can be monthly or fortnightly. In some villages all units pay the same GSC, in other villages it varies from unit to unit.

The GSC paid by former residents

Former residents are required to continue paying their GSC until their unit is re-sold, subject to the limitations under s 104.

The GSC paid by the operator

The scheme operator must pay the GSC for certain vacant, new or future accommodation units under ss 104 and 105.

Operator contribution

In some circumstances, especially in developing villages, a scheme operator may elect to contribute to the GSCF for commercial reasons – for example, to keep residents' payments down to a manageable level for marketing reasons. These contributions are voluntary (but if they are withdrawn it could lead to a deficit in the GSCF that will need to be carried forward under s 102A(7), which could impact on the operator's ability to comply with s 106).

An operator may also need to contribute if there is a deficit carried forward and the operator is unable to comply with the CPI restriction in s 106 and is also unable to secure special resolution approval from residents for an increase in the general services charge. (Note though the limit on an operator's liability for failing to provide a general service under s 73).

Sundry income

This could include miscellaneous income such as bank interest (or similar) or *user pays* services in the village – for example, for coffee in a café, meals or rental income from facilities provided to external service providers (e.g. medical, catering or hairdressing).

Prior year surplus

Any estimated surplus from the previous year is not treated as income but must be brought forward and taken into account. A surplus from the previous year should be shown as an opening balance before the budget income and expenditure.

9.4.2 Expenses in the GSC budget

These are the anticipated costs of providing the general services in the village for the coming financial year, and they need to be monitored closely. It should be normal practice for the scheme operator to submit the draft GSC budget with supporting, transparent workings, detailing how each budget expense is determined.

The draft GSC budget for a financial year is prepared before the end of the previous financial year, so final actual expenses for the previous financial year will not be available. The scheme operator should include an estimate of the final actual expenses for the previous year by providing actuals to the end of the third quarter and estimating the final quarter.

Any estimated deficit from the previous year is not treated as an expense but must be carried forward and taken into account as an opening balance before the budget income and expenditure.

Because of confidentiality issues, individual salaries and wage rates are not usually disclosed but employee numbers and proposed working hours should be available.

Especially where several villages have the same scheme operator there is usually an administration fee budgeted for each village covering shared head offices resources. How the quantum of this is established is often not disclosed and it is a matter of judgement whether the budgeted amount is reasonable.

Some further things to look for which may need clarification from the scheme operator:

- compare each expense's budgeted amount with the previous budget which will identify any major changes
- any new expense items not in previous budgets and which may involve a new service which has not previously been provided, may need residents' approval (s 108)
- identify any large variances between the expenses in the draft budget for the coming financial year and the estimated actuals for the financial year coming to an end
- identify any items in last year's budget which have been removed as it may identify a service which has been withdrawn.

9.4.3 Prior year surplus or deficit

At the time of preparing the budget any surplus or deficit from the previous year will be an estimate which must be taken into account as an opening balance in the budget.

If the final audited financial accounts show a surplus or deficit which differs from the forecast included in the budget, then the final surplus or deficit will be brought forward into the actual results for the budgeted financial year.

9.4.4 Compliance with the CPI restriction under ss 106 and 107

See also Part 5.4 above

It is important for residents committees to check that the draft GSC budget complies with the CPI restriction for the total general services charge in ss 106 and 107.

As a result of amendments to ss 106 and 107 that commenced on 11 November 2019 it has been clarified that the CPI restriction applies to the *total general services charge* in the budget (**total GSC**), which is ***the total amount to be levied via the general services charge in accordance with the budget***. The total GSC in the budget must not increase beyond the total GSC from the budget for the previous financial year by more than the *CPI percentage increase* (which is the increase in CPI over the previous financial year).

The relevant CPI figures are the all groups consumer price index for Brisbane published on the Queensland Government Statistician's Office web site.

At the time the budget is prepared, the CPI figures for the 4th quarter of the current financial year are not yet known, so to determine the *CPI percentage increase,* the RVA requires that the CPI figures published for the 3rd quarter are used. The CPI figures for the 3rd quarter of the current financial year are compared with the corresponding figures from 12 months earlier, and the increase over that 12-month period determines the permitted increase in the total GSC under s 106.

However, the CPI restriction does not apply to the extent the increase in the total GSC:

- has been agreed to by the residents by special resolution; or
- is attributed to certain increases in s 107(a),(b) and (c) expenses or certain total s 107(d) expenses (see Part 5.4 above).

9.4.5 Compliance check methodology for ss 106 and 107

First, it is necessary to determine the total amount that the draft budget proposes to earn via the GSC (i.e. the GSC to be paid by residents, and the GSC to be paid by the operator under ss 104 and 105).

That amount then needs to be compared to the corresponding amount from the previous financial year's budget.

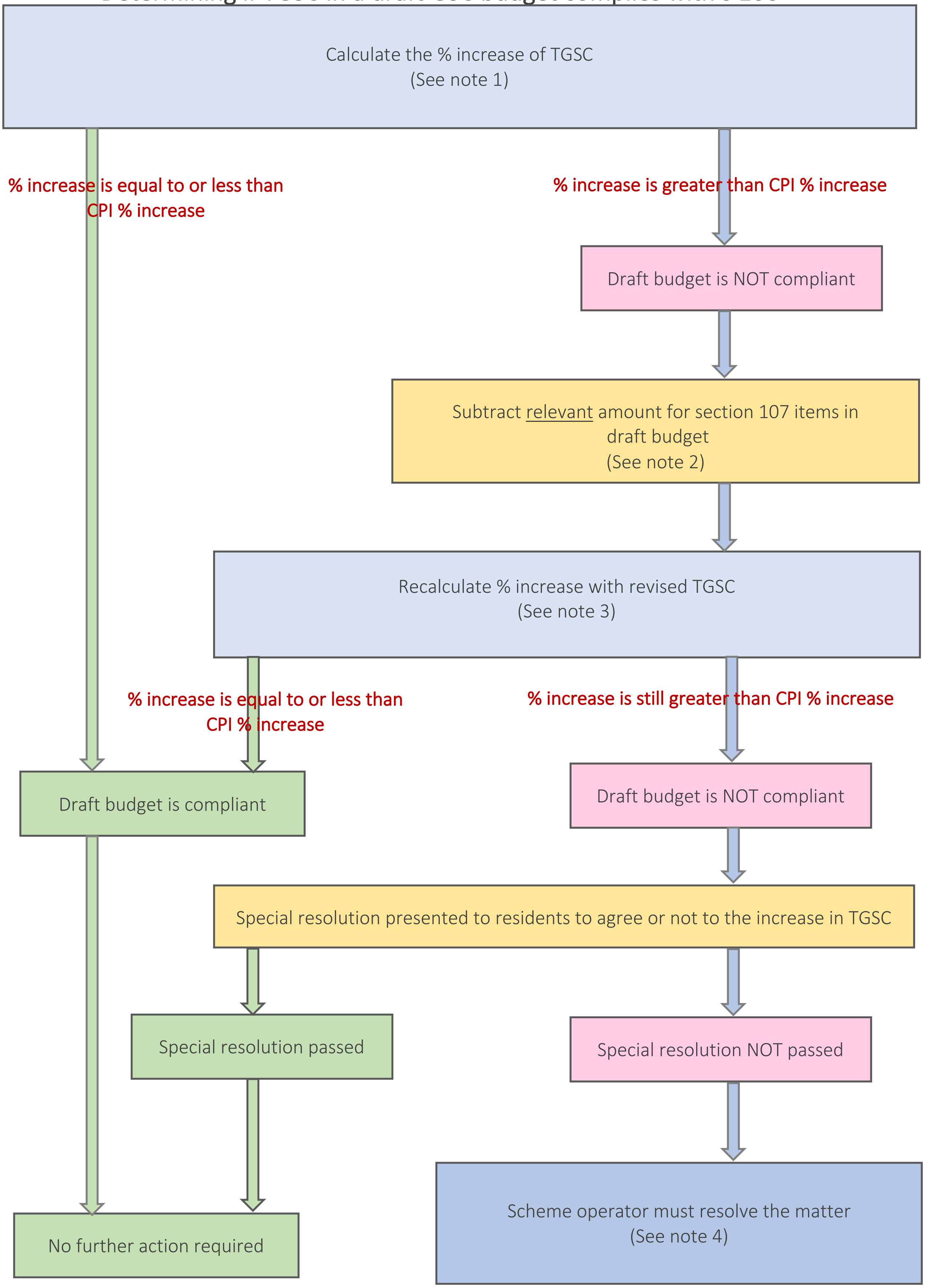
If that amount has been increased by more than the relevant *CPI percentage increase*, it is then necessary to determine the extent to which the increase is attributable to permitted increases under s 107.

If the increase beyond the relevant *CPI percentage increase* is attributable to increases under s 107 then the draft budget complies with s 106 and no special resolution of residents is required.

However, if the increase still exceeds the relevant *CPI percentage increase* despite the increases allowed under s 107, then a special resolution of residents would be required to comply with s 106.

The flowchart on the following page shows the steps to determine if the total general services charge in the GSC budget is s 106 compliant.

Determining if TGSC in a draft GSC budget complies with s 106



Note 1

Calculate the % increase of TGSC by comparing the TGSC* for the draft budget with the TGSC for the previous (current year) budget using the following formula.

$$\textbf{\% increase} = \left[\frac{\textbf{(TGSC in draft budget*) minus (TGSC in previous budget)}}{\textbf{(TGSC in previous budget)}} \right] \textbf{X 100}$$

*A surplus or deficit from the previous financial year must be taken into account in the total general services charge in the draft budget by bringing forward the amount as an opening balance. This amount is included in the calculation of the draft TGSC.

Note 2

Identify the following in the draft budget:

- s 107(a), (b) and (c) items where the amount has <u>increased</u> between the two budgets; and
- <u>full amount</u> of s 107(d) items, if any.

Calculate the sum of (**total amount of <u>increase</u> for s 107(a),(b), or (c) items)** and **(the total amount of s 107(d) item/s, if any)**.

Subtract this amount from the TGSC in the draft budget.

Note 3

Recalculate the percentage increase in the TGSC using the revised TGSC amount for the draft budget by adopting the formula in notes 1 and 2.

Note 4

The scheme operator must resolve the matter, even though the RVA does not specify how, by:

a) redoing the budget so that it complies with s 106. (This could result in reduced services or may be subject to terms in the residents' contracts); or
b) funding an amount that would make the budget compliant; or
c) any combination of (a) and (b); or
d) applying to QCAT for an order.

The following two examples show the proposed draft GSC budget for the 2021 financial year and the associated compliance check methodology for each.

Example 1 – Where there is a prior year surplus and the budget is compliant. For this example, the CPI % increase is assumed to be 1.8%.

Draft Budget FY2021			
	Budget FY 2020	**Budget FY 2021**	**Variance**
	$	$	%
Surplus from FY 2020 brought forward		(20,000)	
Total GSC FY 2020 (after surplus/deficit applied)	1,300,000		
GSC before surplus FY 2020		1,380,000	
Total GSC	1,300,000	1,360,000	4.6
Section 106 expense items	450,000	480,000	6.7
Section 107 items			
(a) Rates	350,000	370,000	5.7
(b) Salaries and wages	400,000	410,000	2.5
(c) Insurance	100,000	120,000	20.0
Total s 107 expenses	850,000	900,000	5.9
Total expenses	1,300,000	1,380,000	6.2

Draft Budget Compliance Check			
	$	$	%
Total GSC after surplus applied		1,360,000	
Less s 107 increases			
Rates	20,000		
Salaries & wages	10,000		
Insurance	20,000		
Total increase in s 107 expenses		50,000	
Net GSC FY 2021 after allowed increases		1,310,000	
Total GSC FY2020		1,300,000	
Difference in total GSC from previous year		10,000	0.8

The compliance check shows that although total expenses have increased by 6.2%, the prior year surplus and allowable s107 item increases offset this to the extent that the increase in the TGSC is just 0.8% and therefore below the CPI increase.

Example 2 – Where there is a prior year deficit and the budget is not compliant. For this example, the CPI % increase is assumed to be 1.8%.

Draft Budget FY2021			
	Budget FY 2020	**Budget FY 2021**	**Variance**
	$	$	%
Deficit from FY 2020 brought forward		25,000	
Total GSC FY 2020 (after surplus/deficit applied)	1,200,000		
GSC before deficit FY 2021		1,230,000	
Total GSC	1,200,000	1,255,000	4.6
Section 106 expense items	420,000	430,000	2.4
Section 107 items			
(a) Rates	330,000	340,000	3.0
(b) Salaries and wages	380,000	385,000	1.3
(c) Insurance	70,000	75,000	7.1
Total s 107 expenses	780,000	800,000	2.6
Total expenses	1,200,000	1,230,000	2.5

Draft Budget Compliance Check			
	$	$	%
Total GSC after deficit applied		1,255,000	
Less s 107 increases			
Salaries & Wages	5,000		
Rates	10,000		
Insurance	5,000		
Total increase in s 107 expenses		20,000	
Net GSC FY 2021 after allowed increases		1,235,000	
Total GSC FY2020		1,200,000	
Difference in total GSC from previous year		35,000	2.9

This compliance check shows that the budget is not compliant because the deficit brought forward of $25,000 is higher than the allowable s 107 increases of $20,000 leaving a TGSC increase of 2.9%

Financial statements

See also Part 6 above.

The scheme operator must provide quarterly financial statements (s 112) and annual financial statements (s 113), when requested by a resident. The quarterly financial statements must be in a form capable of being audited while the annual financial statement must have already been audited. This is intended to maintain high quality reports.

The quarterly financial reports should be available 28 days after the end of the quarter (assuming the request would be made at the end of the month) and should list the income and expenditure for each of the three funds. Where there is an unfavourable variance in spending on a general service as compared to the GSC budget, the residents committee can request a written explanation of the increase. The content or form of the explanation is not specified by the RVA or the RVR.

Some scheme operators are prepared to supply to residents committees a copy of the accounting transaction reports for each of the funds. This gives residents committees an excellent opportunity to thoroughly analyse all transactions.

A major issue affecting all funds is the difficulty of correctly classifying expenditure between *capital improvement*, *replacement* of capital items, *maintenance* of capital items, *repairs* to capital items and *day to day maintenance* (as these terms are defined in the RVA Schedule Dictionary). Classifying them correctly is very important as:

- capital improvement is paid for by the scheme operator except for capital improvements requested by residents under ss 90A or 90B);
- capital replacement is a CRF expense (funded by the scheme operator; with some exceptions – see Part 3.4 above);
- *repairs* and *maintenance* are an MRF expense (funded primarily by residents); and
- *day to day maintenance* is a GSCF expense (funded primarily by residents).

This issue is complex and has been covered at length in the ARQRV publication *Guidelines to Classification of Expenditure* document available on the ARQRV website.

Residents committees must pay special attention to this issue when reviewing financial statements.

9.5 Capital replacement fund (CRF) financial statements

See also Part 6 above.

The quarterly and annual financial statements for the CRF should show the scheme operator's contributions, interest received for the period, and any other income to the CRF. They should also detail all relevant expenditure for the *replacement* of capital items in the village for the relevant period. This will leave a surplus or deficit for the period which should be reconciled to the capital replacement fund bank account.

The reconciliation may need to incorporate any creditor accruals relating to costs incurred but not paid.

9.6 Maintenance reserve fund (MRF) financial statements

See also Part 6 above.

The quarterly and annual financial statements for the MRF should show the residents' contributions (and any scheme operator's contribution) as well as interest received for the relevant period. They should also detail all relevant expenditure from the MRF on *repairs* and *maintenance* in the village. This should be scrutinised to ensure that there are no *replacements* charged to the MRF (that should be charged to the CRF). There may be a surplus or a deficit for the period which should be reconciled to the bank account.

The statements should include a comparison which lists the actual expenditure against the budgeted expenditure by asset category as set out in the quantity surveyor's report. This will highlight discrepancies between intended and actual maintenance expenditure.

The audited annual financial statement should compare the current year's actuals with the previous year's audited income and expenditure which should be reviewed.

9.7 General services charges fund (GSCF) financial statement

See also Part 6 above.

When reviewing the GSCF quarterly financial statements the main task is to:

- compare the year to date actual income and expenditure with the budget; and
- investigate expenditure beyond budget and seek written explanations from the scheme operator where necessary. The RVA does not require scheme operators to explain expenses which are under budget. They are usually acceptable except if it means that some general services (such as day to day maintenance) are not being provided.

The 80:20 rule can be used, and attention concentrated on the large expenses and large variances. Some items which are frequently an issue, and which require vigilance are as follows:

- **GSCF income (resident and operator contributions)** – changes in the status of units from *under construction* to *completed*, from *occupied* to *vacated*, and from *vacated* to *sold* can create variances between resident and operator contributions. It is worth keeping track of these changes in the status of units by date so that a review is easier.
- **GSCF bank account** – ensure that the if bank reconciliation is available it is checked as a separate bank account should be kept for the GSCF.
- **Correct allocation of expenses** – ensure that individual expenses are allocated:
    - to the correct village where the scheme operator has multiple retirement villages;
    - on the correct basis where facilities are shared with an adjacent development (for example, shared with an aged care or manufactured home park development);
    - to the correct fund, so that costs attributable to the CRF or the MRF are not charged to the GSCF. (In the absence of regulated model classification rules under s 113A, the ARQRV publication *Guidelines to Classification of Expenditure* can be of assistance to the correct allocation of an expense).

It is also useful to obtain the audited annual financial statements for the GSCF. There is more credibility that these are accurate having been subjected to an audit. These statements should show a comparison with the audited accounts for the previous year. In addition to the items referred to above for attention, it may also be necessary to consider any movement in the statement of financial position (balance sheet) regarding debtors, creditors and any loan balance with the scheme operator.