



A briefing from the Retirement Villages Association

The Ministry of Housing and Urban Development review of the Retirement Villages Act 2003.

More than 100 people are moving into retirement villages every week and independent research shows nearly 90 per cent of over 50,000 residents are satisfied or very satisfied with village living.

The Ministry of Housing and Urban Development's discussion paper on the retirement village sector is an important and positive contribution to shaping the future of retirement village living in New Zealand.

The discussion paper has picked up most of the substantial reforms our sector is already voluntarily rolling out in retirement villages across the country.

These include:

- amending Occupation Rights Agreements (the contract between an operator and resident) to eliminate any unfair clauses
- making it clear the maintenance and replacement of operator-owned chattels should be the operator's responsibility
- introducing the compulsory disclosure of information and financial implications when residents transfer to care facilities.

The discussion paper also proposes that the ORA be partially standardised where possible and the disclosure statement be replaced with one or two shorter documents. The RVA's own Key Terms Summary has been highlighted as a model.

Ultimately, the discussion paper preserves the integrity of the successful retirement village model, which is the reason why retirement village living is so popular.

Other proposals in the discussion paper also reflect the RVA's approach, in particular relating to residents moving out of a village.

This includes:

- village outgoings and fixed deductions (Deferred Management Fee) to cease being charged either immediately or no later than four weeks following vacation
- no right to pass on capital loss unless residents also have the benefit of capital gain

The vast majority of retirement villages have already implemented substantial changes to the way they operate

- For villages with more than 50 units, more than three quarters have no weekly fees once a resident vacates a unit
- Almost two-thirds of villages do not continue to accrue a Deferred Management Fee once the unit is vacated
- 90% of villages have removed any capital loss clauses where the resident does not share any capital gain
- More than 70% of villages also make a compensatory payment when the capital sum remains unpaid for any period

Mandatory buy-backs

The one area where the RVA disagrees with the approach taken by the Ministry of Housing and Urban Development is around mandatory buy-backs. Requiring operators to hold cash or a line of credit to be able to pay residents out within any specific time frame will lead to significant additional costs and possible business failure, in particular for smaller village operators in regional New Zealand. Most units are relicensed within six months, and fewer than 10% (based on 2021 data) take more than nine months.

Rather than penalising the efficient as well as the tardy by imposing a statutory deadline for refunding the outgoing residents' capital, we propose that operators pay interest on the outstanding amount after nine months. It is pleasing that HUD includes this as an option, and is one we strongly support.

Next steps

The RVA remains committed to ensuring the best outcomes for retirement village residents and operators alike and we will be providing a submission to the Ministry of Housing and Urban Development.

However, we also believe some of the key reform proposals can be implemented with simple changes to the **Retirement Villages Code of Practice (COP)** ahead of any potential legislative changes.

These include:

- Ceasing charging weekly fees on vacation of a unit
- Imposing an obligation on operators to pay interest on termination monies after nine months following vacation of a unit
- Ceasing charging of fixed deductions on vacation of a unit
- Prohibiting charging for capital loss unless resident also has a corresponding right to receive capital gain
- Prohibiting operators from passing on insurance excess amounts for loss, damage or destruction of retirement village property if the resident is not at fault
- Rewriting the COP in plain English
- Updating the definition of fair wear and tear to include damage caused by mobility aids and incontinence
- Updating the definition of retirement village property to include operator owned chattels and fixtures

Some other changes could be completed via legislative change but at present the RVA remits already address most of these key issues and 96% of villages are members of the association.

These are:

- Disclosure of key information regarding transfer to care
- Obligation to provide a key term summary
- Obligations on operators to bring units up to Healthy Home Standards
- Obligation on operators to provide intending residents with a list of operator chattels before entering the village
- Obligation on operators to replace owner operated chattels at the end of their economic life
- Making audits of retirement villages publicly available

Some changes set out in the Paper require legislative change however the RVA wishes to see evidence to justify:

- Changing the complaints system for residents
- Introduction of new disclosure documents and a partially standardised ORA

Summary

Retirement living is a popular choice for older New Zealanders seeking companionship, community, safety and a hassle-free lifestyle. In the last 10 years alone, the number of units available has doubled from 19,400 in 2012 to 39,100 today, and there are a further 24,770 villas and apartments in design, consent or construction.

The sector is also one of the country's largest house builders, offering older New Zealanders a range of affordable accommodation options with independent living through to a continuum of care and expansive community facilities.

We believe some regulatory changes are required and these can be quickly and simply enacted via a Code of Practice change.

However, other suggested changes such as standardisation of ORAs and changing the complaints process may be more problematic. We are yet to see evidence either of these changes are necessary, but we welcome further discussions on these matters.

For more information, please contact



Graham Wilkinson

President
RVA
021 346 844



John Collyns

Executive director
RVA
021 952 945
john@retirementvillages.org.nz