



Te Tūāpapa Kura Kāinga
Ministry of Housing and Urban Development

Review of the Retirement Villages Act 2003: Options for change

Summary of discussion paper
August 2023

Te Kāwanatanga o Aotearoa
New Zealand Government

Review of the Retirement Villages Act 2003

The retirement villages sector plays a significant role in meeting the needs of older New Zealanders and in adding to our overall housing supply. Currently around 48,000 people live in retirement villages, and this is expected to increase to over 81,000 by 2033.

Te Tūāpapa Kura Kāinga – the Ministry of Housing and Urban Development is leading a review of the Retirement Villages Act 2003 and its associated regulations and codes to ensure they remain fit for purpose and strike a balance between the rights and responsibilities of residents and retirement village operators.

We have released a discussion paper, **Review of the Retirement Villages Act 2003: options for change**, seeking feedback. We would like to hear from retirement village residents, their families, prospective residents, retirement village operators, sector bodies, legal advisors, and anyone else who has an interest in retirement villages.

The discussion paper can be found at consult.hud.govt.nz/policy-and-legislation-design/review-of-retirement-villages-act-2003/

Summary of discussion paper

This document summarises the proposals in the discussion paper.

If you would like more information about a topic summarised in this document, we have included page numbers directing you to the corresponding section of the discussion paper.

How to make a submission

To make your submission you can:

- answer the survey questions online at consult.hud.govt.nz/policy-and-legislation-design/review-of-retirement-villages-act-2003/ or
- email us at RVAreview@HUD.govt.nz or
- send it by post to:
Retirement Villages Act Review
Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development
PO Box 82
Wellington 6140

You can:

- comment on all, or some, of the proposals
- answer all, or some, of the survey questions
- tell us anything else you think we should know that is relevant to the review.

The closing date for submissions is **5pm, Monday 20 November 2023**.

Part A: Overview of the review

The retirement villages legislative framework

RETIREMENT VILLAGES ACT 2003

The purpose of the Act is to protect the interests of residents and intending residents and enable retirement villages to develop under a simple, easy-to-understand legal framework. The Act includes the Code of Residents' Rights.

Retirement of Villages Code of Practice 2008

Sets out the minimum requirements for operators of retirement villages.

Retirement Villages (General) Regulations 2006

Regulates disclosure of information, occupation right agreements, registration, statutory supervisors and other matters.

Retirement Villages (Disputes Panel) Regulations 2006

Sets out the process for panel hearings to resolve disputes.

Retirement Villages (Fees) Regulations 2006

Sets out fees and penalties.

Objectives of the review

The review considers whether the Retirement Villages Act 2003 (the Act), regulations and codes remain fit for purpose to ensure:

- adequate consumer protections for residents and intending residents of retirement villages
- an effective balance between the rights and responsibilities of residents and operators of retirement villages (operators)
- the ongoing viability of the retirement village sector and its ability to provide a range of retirement housing options and consumer choice
- the rights and responsibilities of residents and operators are appropriately defined, including where they may differ for different occupancy rights.

We are proposing changes and seeking feedback

Where we consider the legislative regime is not meeting the objectives of the review, we have proposed changes to provide better outcomes. These changes would be given effect through amendments to the Act, regulations, and codes.

We seek feedback on proposals relating to the three main stages of retirement village living: **moving in**, **living in**, and **moving out**. On other general topics we seek feedback on proposals, or information and views to inform further policy work.

Part B: Moving in

Disclosure statements



To read more about this topic, please refer to page 28 of the discussion paper.

A disclosure statement is a document setting out the main terms of an offer for an intending resident to enter a retirement village, such as the state of the village, services and facilities offered, and the estimated financial return to the resident if they were to sell or dispose of a unit. Operators must provide intending residents with a written disclosure statement document containing specified information before they can sign an occupation right agreement.

What are the issues with the disclosure regime?

- Disclosure statements are often long, hard to understand and difficult to access.
- There can be too much information, the wrong kind of information, and duplication across documents.
- Undertakings in disclosure statements and advertisements can be hard to enforce.

To address the issues we are proposing to:

- prescribe new, shorter disclosure documents which would be required to be published on the village's website in a prominent place and in a searchable format.

Two options for new disclosure documents are proposed:

Option 1: a Village Comparison and a Retirement Village Information Statement (two documents)

- The Village Comparison would be in a standardised form of no more than three pages, similar to the Retirement Villages Association's Summary of Key Terms.
- The Information Statement would have prescribed headings and questions, be no more than twelve pages long, have no more than 5,000 words, and be drafted in plain language.

Option 2: one new, shorter Disclosure Statement (one document)

- The new Disclosure Statement would have prescribed headings and questions, be no more than fifteen pages long, have no more than 6,000 words, and be drafted in plain language.
- make it easier for residents to make a complaint against an operator (or its agent) for making a misleading or false statement, either verbally or in writing, to an intending resident
- strengthen the power of the Registrar of Retirement Villages to act if they consider a registered document or advertisement is likely to mislead or confuse
- require that if a term in an ORA is inconsistent with information in a disclosure document to the detriment of the resident, the term should be interpreted (as far as is practicable) in favour of the resident.

Occupation right agreements



To read more about this topic, please refer to page 35 of the discussion paper.

An occupation right agreement (ORA) is a contract between a retirement village operator and a resident, giving the resident the right to occupy a unit in a retirement village. An ORA can cover a variety of ownership and occupation agreements, but in practice around 95 percent of retirement village units are sold under a 'licence to occupy' agreement. This means a resident buys the right to live in their unit but does not own it.

What are the issues with ORAs?

- ORAs can be long, complex and difficult to understand.
- Some information in ORAs is duplicated in the disclosure statement and Code of Practice.
- Residents are generally unable to negotiate the terms of their ORAs, and some ORAs may contain unfair terms.

To address these issues we are proposing to:

- prescribe a partially standardised ORA which would be required to be drafted in plain language and in a searchable format for electronic versions.

Two options for standardising ORAs are proposed:

Option 1: standardise the format (i.e., the headings and layout)

- The format of an ORA would be standardised, including topic headings and the order of the headings, and operators would fill in the content. Terms and information to be included in an ORA would be grouped under topic headings.

Option 2: standardise both the format and some of the terms

- The format would be standardised (as in option 1 above) and some of the text of the terms and information would also be standardised.
- Terms and information which would be standardised are those which are common to the sector (e.g., definitions of terms such as 'licence to occupy') and those which are minimum standards or obligations mandated by the Act.

We also seek feedback on:

- whether to introduce a specific power to declare a term unfair in the Act or regulations, meaning the term would be void and unenforceable
- whether additional measures are needed to address privacy concerns that may arise from terms in ORAs
- whether conveyancers (who specialise in the transfer of property ownership) should be able to provide intending residents with legal advice on ORAs.

Part C: Living in

Maintenance of operator-owned chattels and fixtures



To read more about this topic, please refer to page 43 of the discussion paper.

Retirement village units come fitted with chattels and fixtures owned by the operator. These will vary between units and villages but commonly include things like dishwashers, curtains, and light fixtures. The legislation does not explicitly cover responsibilities for the maintenance, repair, and replacement of operator-owned chattels and fixtures.

What are the issues with operator-owned chattels and fixtures?

- Operators can set terms through ORAs for the maintenance and repair of chattels and fixtures, including who is responsible for covering the costs.
- Some residents are required to pay for the maintenance of chattels and fixtures they do not own, and which may have been used by previous residents.
- Some residents are required to pay for damage which should be classified as fair wear and tear.

To address these issues we are proposing to:

- amend the definition of 'retirement village property' in the Act to include operator-owned chattels and fixtures in units
- require operators to provide a list of chattels and fixtures, along with their condition, to intending residents
- require operators to meet the direct costs of the maintenance and repair of their chattels and fixtures (unless intentionally or carelessly damaged by residents)
- clarify that marks due to mobility aids and incontinence are classified as 'fair wear and tear'
- require operators to replace chattels and fixtures when they wear out.

Note: The proposals broadly align with the Residential Tenancies Act 1986, which requires landlords to list chattels they provide in rental properties in the tenancy agreement, and to maintain premises in a reasonable state of repair. Tenants have limited liability for damage they carelessly cause to the landlord's property.

A simple and effective dispute resolution scheme



To read more about this topic, please refer to page 49 of the discussion paper.

An effective dispute resolution scheme is vital for ensuring residents have adequate consumer protections. If residents cannot resolve a complaint or are unhappy with how it is addressed, it may not be viable for them to move out of the retirement village and live somewhere else.

Retirement village operators are responsible for receiving and resolving complaints under the current scheme. The village's statutory supervisor can become involved to offer a way forward and the operator must offer mediation. If a negotiated resolution cannot be reached, a dispute panel can be appointed to hold a hearing and make a binding decision.

What are the issues with the complaints and disputes regime?

To align with the best practice principles for dispute resolution, a scheme needs to be accessible and user focused, independent, efficient, effective and accountable. The current scheme does not align well with these principles. For example:

- the scheme is not independent from operators
- statutory supervisors and disputes panels are engaged by operators which impacts perceptions of their independence
- residents may be reluctant to complain to the operator as they do not want to be seen to be making a fuss or feel it may affect their relationship with village management/staff
- the scheme can be complex to navigate with no advocacy support for residents
- dispute panel hearings are adversarial and expensive.

To address these issues we are proposing to:

- replace the current scheme with a new one, which would align with the best practice principles and have the following features:
 - A new, independent scheme provider would be responsible for receiving and progressing formal complaints and supporting parties through to a resolution.
 - Resolution through negotiation between the parties would be emphasised. Where a negotiated outcome is not possible, the dispute would be referred to a decision maker with the mandate and expertise to make a binding decision.
 - Residents and their families would be involved in the design of the new scheme to ensure it is accessible and meets the needs of users.
 - The new scheme would be proportionate to the number and nature of complaints.
 - The operating costs would be funded primarily by operators, although residents could be required to contribute where disputes are between residents.

We also seek feedback on:

- whether the new scheme should be provided by an independent dispute resolution scheme provider or a commissioner (potentially through an expansion to the role of the Retirement Commissioner).

Moving from retirement village living into aged residential care



To read more about this topic, please refer to page 61 of the discussion paper.

Many retirement villages offer rest home care, hospital-level care, and/or secure dementia care. Aged residential care is part of the health system, but the health and retirement villages legislation overlap when a resident transfers to aged residential care within a retirement village.

Many residents choose a retirement village for the continuum of care it offers, attracted by the prospect of a seamless transition to aged residential care should they need it in the future. Villages are offering an increasing range of accommodation options in response to resident demand, with different payment arrangements. This may involve residents transferring to aged residential care paying a capital sum (including a refundable accommodation deposit/RAD) and having a new ORA.

What are the issues with transferring to aged residential care?

- Residents may have expectations a suitable room within their village will be available when they need to transfer to aged residential care.
- The interface between retirement villages and aged residential care is complex, and can be challenging for residents, their families, legal advisors and operators to navigate.
- Disclosure documents and ORAs may not always provide clear, comprehensive information on the options available and process for transferring to aged residential care.
- The financial implications can be significant but are not always well understood.

To address these issues we are proposing to:

- require operators provide more comprehensive information in disclosure documents on the options available for and the financial implications of transferring to aged residential care within their village or an affiliated site. This would include clear information about whether a capital sum is required and a fixed deduction will be charged
- require operators to provide information on occupancy levels of on-site aged residential care facilities
- require a statement in standardised wording in the new disclosure documents that an operator may not be able to guarantee an aged residential care unit at the time a resident needs it.

We also seek feedback on:

- residents paying a capital sum and having an ORA for aged residential care accommodation
- sector practices and views on residents paying a second fixed deduction for living in the same village.

Minimum building standards for retirement villages



To read more about this topic, please refer to page 70 of the discussion paper.

Retirement village units are built to different standards, depending on the applicable regulations at the time they were constructed. The Code of Practice sets out the minimum building requirements that operators need to meet and should be read in conjunction with the Building Code.

Older village units are likely to be of a lower standard than newer ones, unless the village has undergone significant refurbishment and has been brought up to more recent Building Code standards.

We have heard that some retirement village units may not have been refurbished to standards equivalent to the healthy homes standards. Retirement villages are not required to meet the healthy homes standards as they only apply to rental properties under the Residential Tenancies Act 1986. However, new villages which are built to the current Building Code would likely meet or exceed the healthy homes standards.

Because of the older age and associated health needs of residents, it is important that retirement villages are built or upgraded to a high standard, are warm and dry and are accessible for disabled people.

We seek feedback on:

- whether retirement villages should be upgraded to meet certain building standards, such as the healthy homes standards
- whether retirement villages are age-friendly and accessible to support residents to age in place.

Note: The Residential Tenancies (Healthy Homes Standards) Regulations 2019 are made under the Residential Tenancies Act 1986. The Regulations have standards for heating, insulation, ventilation, moisture ingress and drainage, and draught stopping for rental properties.

Part D: Moving out

Repayment of the resident's capital sum



To read more about this topic, please refer to page 72 of the discussion paper.

Retirement village residents pay a capital sum (a sum of money) in return for the right to live in their retirement village unit. When the resident leaves the village, the capital sum is repaid to the resident or their estate, minus a fixed deduction (also known as a deferred management fee) which is a percentage kept by the operator.

What are the issues with repayment of capital sums?

- For residents with licence to occupy ORAs, operators do not have to repay a former resident's capital sum until their unit has been relicensed. Operators need to take all reasonable steps to relicense the unit once the resident has left, but this can still take a long time.
- While waiting for the unit to be relicensed, the former resident or their estate does not have access to their money, which can cause financial and emotional stress if this takes a long time.

To address these issues we are proposing to:

- require operators to repay a former resident's capital sum within a fixed period after the ORA has been terminated and the unit has been fully vacated (e.g., six or twelve months), with potential exemptions on certain grounds **and/or**
- require operators to pay interest on a former resident's capital sum if the unit remains vacant after six months.

Note: These options could be implemented separately or in combination.

Stopping outgoings and other fees



To read more about this topic, please refer to page 79 of the discussion paper.

Outgoings, also known as weekly fees, are costs relating to the operation, management, supervision and maintenance of the village, recovered from residents as agreed in their ORAs.

What are the issues with stopping outgoings and other fees?

- Some operators continue to charge outgoings to former residents until their units have been relicensed. This means former residents are being charged for services they receive no benefit from.

To address this issue we are proposing to:

- require operators to stop charging outgoings to former residents either immediately or very soon (i.e., no more than four weeks) after an ORA has been terminated and the unit has been fully vacated.

Fixed deductions



To read more about this topic, please refer to page 81 of the discussion paper.

A fixed deduction is a sum charged by operators when a resident vacates their unit. The fixed deduction is subtracted from the repayment of the resident's capital sum once the unit has been relicensed. A fixed deduction is sometimes called a deferred management fee, exit fee, facilities fee, or village contribution. Fixed deductions cover the resident's use of village facilities during their time living in the village and include a margin to help cover the costs of supplying and upgrading the village and facilities for future residents.

What are the issues with fixed deductions?

- The amount of the fixed deduction may depend on how long a resident has lived in the village, often with the percentage accruing over time. Fixed deductions can continue to accrue between a resident vacating a unit and the unit being relicensed, despite the resident no longer receiving the benefit of village facilities.
- The Code of Practice places no limits on fixed deductions.

To address these issues we are proposing to:

- require that fixed deductions stop accruing either immediately or very soon after an ORA has been terminated and the resident has fully vacated their unit (i.e., no more than four weeks).

Treatment of capital gains/losses



To read more about this topic, please refer to page 83 of the discussion paper.

Retirement village operators are under no obligation to share capital gains (or losses) from re-licensing a unit with the outgoing resident when their capital sum is repaid. While some villages share capital gains with outgoing residents, most do not.

What is the issue with capital gains/losses?

- Under the terms of their ORA, an outgoing resident may be liable for any capital loss from relicensing the resident's unit, even if the resident is not eligible to share any potential capital gains. This is one-sided and unfair.

To address this issue we are proposing to:

- only allow residents to be held liable for a capital loss from the relicensing of their unit to the same extent as they would be entitled to any share of the capital gains. For example:
 - If residents are not entitled to any share of a potential capital gain, they are not liable for any share of a potential capital loss.
 - If residents are entitled to 50 percent of any potential capital gain, they can be liable for up to 50 percent of any potential capital loss.
 - If residents are entitled to 100 percent of any potential capital gain, they can be liable for up to 100 percent of any potential capital loss.
- clarify that operators that share capital gains with residents would not have to make residents liable for capital losses to the same extent. For example, if a resident is entitled to up to 50 percent of a potential capital gain, the ORA could limit their liability for a potential capital loss to a lower percentage (such as 25 percent or 0 percent).

Part E: Future-proofing the definition of retirement village



To read more about this topic, please refer to page 86 of the discussion paper.

The definition of a retirement village is in section 6 of the Act. The key elements are:

- a property, building or other premises containing two or more residential units providing accommodation, services and/or facilities for people in their retirement
- a resident's right of occupation may be provided by way of freehold or leasehold title, cross lease title, unit title, lease, licence to occupy, or residential tenancy
- residents pay a capital sum for their right to occupy a residential unit.

We want to ensure that future cohorts of older New Zealanders can access housing options that meet their needs. Increasingly, people will still have mortgages on their homes or be renting when they reach retirement age and may not be able to afford a capital sum to buy into a retirement village.

There can sometimes be confusion as to whether other establishments, or parts of them, meet the definition of a retirement village. Unit title lifestyle villages, for example, target retirees with similar marketing to registered retirement villages.

We seek feedback on:

- whether the definition of retirement village is easy to understand and enables operators to respond to changing demographic and housing needs.

Part F: Other topics

Insurance cover for retirement village operators



To read more about this topic, please refer to page 88 of the discussion paper.

Retirement village operators are required to take out comprehensive insurance policies to cover loss, damage or destruction of retirement villages by fire, accident or natural disaster. Policies must provide ‘full replacement cover’ unless this type of policy is not available.

What are the issues with insurance cover requirements?

- It is no longer possible for many operators to obtain full replacement cover policies. Insurers generally require an agreed ‘sum insured’ policy. Operators with multiple villages are also increasingly obtaining collective or ‘loss-limit’ policies.
- When an entire village is destroyed and the operator terminates all ORAs, most insurers will pay out the indemnity value of the village which will typically be less than the amount required to pay out all the residents’ capital sums (with no fixed deductions charged to residents). In some cases, there can be a substantial shortfall that the operator is required to cover under Code of Practice obligations.
- Provided that residents are informed, there are no restrictions in the Code of Practice on operators passing on insurance excesses to residents. Where retirement village property has been damaged and residents are not at fault, passing on the insurance excess is likely to be unfair.

To address these issues we are proposing to:

- remove the requirement for full replacement cover and allow operators to obtain sum-insured and collective policies
- require operators to maintain insurance policies that are sufficient alongside other funds to pay out residents’ capital sums in the event that a village is entirely destroyed, unable to be reinstated and all ORAs are terminated
- restrict the ability for operators to pass on any insurance excess amounts to residents if the loss, damage or destruction relates to retirement village property, and the resident was not at fault.

Security for residents' capital sums



To read more about this topic, please refer to page 92 of the discussion paper.

Retirement village operators must appoint a statutory supervisor unless the Registrar of Retirement Villages grants an exemption. Statutory supervisors are independent professionals licensed by the Financial Markets Authority whose role is to represent the collective financial interests of retirement village residents and monitor the financial position of the village.

Statutory supervisors can negotiate with an operator to hold a security agreement; a land security through a mortgage or encumbrance, and/or personal property security through a general security agreement (GSA).

Security arrangements set the priority order in which creditors (including residents) receive amounts due to them. Personal property security also gives the statutory supervisor the ability to appoint a receiver quickly, if required.

What are the issues with security of residents' capital sums?

- Not all statutory supervisors can negotiate to hold personal property security through a GSA. This leaves a security gap which could result in residents not being refunded their full capital sum if a village gets into financial difficulty.
- Statutory supervisors can request information from auditors of retirement villages. In some other sectors, auditors must report concerns about finances to the relevant supervisors.

To address these issues, we are proposing to:

- require statutory supervisors to hold both land and personal property securities. To ensure consistency across all villages this proposal would apply to existing and new deeds of supervision.

We also seek feedback on:

- whether it would be useful to require auditors to report certain information to statutory supervisors, similar to sections 198 and 199 of the Financial Markets Conduct Act 2013.

Culturally responsive services and models of care



To read more about this topic, please refer to page 94 of the discussion paper.

Our vision is that everyone lives in a home and a community that meets their needs and aspirations. We know that connection to culture and affirmation of identity are hugely important for health and wellbeing.

To date, retirement villages have been home mostly to older New Zealand European/Pākehā. Our population is changing and over time more of our older people will belong to ethnic groups other than Pākehā.

We seek feedback on:

- whether operators provide a culturally responsive environment in the design and delivery of their villages and services, and how they do so.

Roles of government agencies in the retirement village system



To read more about this topic, please refer to page 96 of the discussion paper.

Multiple government agencies have roles and responsibilities in the retirement villages system, including:

- Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development, which is responsible for administering the Act and its regulations
- Te Ara Ahunga Ora – Retirement Commission, which monitors the effects of the retirement villages legal framework and provides education and advisory resources
- the Registrar of Retirement Villages, within the Ministry of Business, Innovation and Employment, whose responsibilities include the registration of villages and maintenance of the Retirement Villages Register.

Stakeholders have noted that the system is complex, with many agencies involved but none taking an overall leadership role. There is no government agency responsible for auditing retirement villages' compliance with the legislation (though the Retirement Villages Association and statutory supervisors undertake monitoring and compliance roles).

We seek feedback on:

- whether government agencies have sufficient powers to carry out their functions under the Act
- whether one agency should have an overall system leadership role and responsibility for auditing retirement villages' compliance with the legislative framework.

The operation of the Retirement Villages Register



To read more about this topic, please refer to page 98 of the discussion paper.

The Retirement Villages Registrar (the Registrar) is responsible for the registration of villages and maintenance of the Retirement Villages Register (the Register). Operators must provide information and documents that are made available on the Register.

The review provides an opportunity to amend the provisions in the Act which provide for the establishment, maintenance, and operation of the Register, so they more closely reflect the way the Register is maintained and operated in practice.

We are proposing to:

- require operators to provide additional information and documents that the Registrar is already requesting in practice
- include a power for the Registrar to correct minor or technical errors on the Register
- provide the Registrar with a power to specify the manner in which documents are to be filed or lodged
- provide a power to regulate the purposes for which the Register can be searched and the manner in which it can be searched.

Code of Practice



To read more about this topic, please refer to page 101 of the discussion paper.

The Code of Practice builds on provisions in the Act and regulations by setting out further rights and obligations of retirement village operators and residents.

What are the issues with the Code of Practice?

- There is no requirement for the Code of Practice to be reviewed on a regular basis.
- The Code of Practice is not written in plain language and can be difficult to understand.
- The Code of Practice sets out procedures for annual and special general meetings, which all residents are expected to attend. We have heard that some residents may struggle to attend or understand these meetings, and others do not want to attend.
- The Code of Practice sets out consultation requirements, but they may not be followed or strong enough in relation to increases to weekly fees.

We seek feedback on:

- issues related to the Code of Practice and whether any changes are needed.

Code of Residents' Rights



To read more about this topic, please refer to page 103 of the discussion paper.

The Code of Residents' Rights summarises minimum rights conferred on a resident by the Act.

What are the issues with the Code of Residents' Rights?

- The Code of Residents' Rights includes a resident's right not to be exploited, but there is no reference to a right to safety.
- Residents' responsibilities towards one another are poorly defined in the Code of Residents' Rights. For example, there is no obligation on residents not to interfere with the peace, comfort, or privacy of other residents.

We seek feedback on:

- issues related to the Code of Residents' Rights and whether any changes are needed.

Offences and penalties



To read more about this topic, please refer to page 105 of the discussion paper.

The Act sets out offences and penalties for people breaching or failing to comply with certain provisions. The Act also provides for enforcement mechanisms, such as the power of the Registrar to suspend registration of a retirement village operator for specified offences. If proposals in the discussion paper for the disclosure regime and ORAs are implemented, new offences and enforcement mechanisms would be created.

We seek feedback on:

- any issues with the current provisions for offences, penalties, and enforcement tools under the Act.

Application of the Real Estate Agents Act 2008 to sale of a retirement village unit



To read more about this topic, please refer to page 106 of the discussion paper.

When a resident vacates a unit, the two most common ways of relicensing or selling a unit are through a transfer facilitated:

- by the outgoing resident, either directly or through the outgoing resident engaging a real estate agent or
- through the retirement village, either directly or through the village engaging a real estate agent.

If a real estate agent is used, the consumer protection mechanisms in the Real Estate Agents Act 2008 (REA Act) apply directly to the buyer and the seller who has engaged the agent.

Where the transfer of a unit is facilitated directly through the retirement village without the use of a real estate agent, the general protections of the retirement villages legislation apply. However, the wider protections under the REA Act, for both the buyer and the outgoing resident, do not.

We seek feedback on:

- whether all sales and transfers of retirement village units should have the same consumer protections
- whether third parties facilitating the sale or transfer of a retirement village unit (whether that is the retirement village operator or an independent third party) should have a general fiduciary duty to act in the best interests of the outgoing resident.

General questions and any other comments related to the review

Impact of proposals

We are interested in views on the impact of the proposed changes, by themselves and collectively, on those within the retirement village sector such as operators, residents, intending residents, residents' families, advising lawyers, statutory supervisors, and the Registrar. These impacts could be quantifiable or non-quantifiable costs and benefits, for example, financial costs, legal costs, more efficient processes, greater clarity, or increased wellbeing.

Relevance of proposals for Māori

While there is limited information available, we understand that relatively few Māori reside in retirement villages. There are a range of historical, cultural, and economic reasons why this is likely to be the case. We are interested in hearing about Māori interests in and experiences of retirement villages that we should take into account in the review.

Other issues not covered in the discussion paper

You are welcome to write to us about any retirement village matters that relate to the review but may not be covered in the discussion paper. This can include any personal experiences you might have had that should be considered as part of this review.

We seek feedback on:

- how the proposed changes, by themselves and collectively, might affect different parts of the sector
- Māori experiences of and interests in retirement villages
- anything else relevant to the review that you want to share with us.

Next steps – submissions analysis and potential law changes

After the consultation period closes on 20 November 2023, we will analyse the submissions we receive and provide advice to the responsible Minister. Depending on the feedback we get, there may be further consultation on the detail of any proposed changes.

The Minister may then seek policy decisions from Cabinet to amend the Act, and a Bill would be drafted and introduced to Parliament.

Once a Bill is introduced to Parliament and it passes its first reading, it is referred to a Select Committee for consideration. At that stage, sector organisations, operators, residents and the public have another opportunity to comment on the proposed law changes.

Implementing any changes

If the proposed changes are adopted and implemented through legislation, there will be a transition period between when the legislation is passed (or regulations are made) and when the various changes start applying. This is to allow the sector time to adjust to the new laws. Where relevant, we have set out a suggested implementation period for each of the proposals in the discussion paper.



Te Kāwanatanga o Aotearoa
New Zealand Government