**RETIREMENT VILLAGES ASSOCIATION**

**INDUSTRY STANDARDS – 2022 AGM REMIT DISCUSSION PAPER**

1. **Background**

In December 2020 the Retirement Commissioner released a White Paper that advocated an urgent review of the retirement villages legislative framework. In effect, the concerns that led to the call for the review aren't so much about the consumer protection in the legislation but rather aspects of the sector’s commercial terms that are causing distress for some residents and stakeholders.

The RVA believes that developing and enforcing industry best practice is a more effective and fairer way to resolve these issues rather than legislative intervention. It appears that some stakeholders support this position, provided that the best practice in fact addresses the concerns and can be enforced by the RVA.

Around 70 (around half the potential number) RVA Principal Members attended the four consultation forums held in Wellington, Tauranga, Auckland and Christchurch between September 2021 and February 2022 to discuss the commercial concerns raised by the Retirement Commissioner.

We have already taken steps to put in place some steps to improve our policies and practices – for example, the Hon Jo Goodhew has been appointed to the RVA’s Executive Committee as an Independent Member to bring older peoples’ viewpoint to the Executive Committee – while others require members to agree to implement them as they may impact on your businesses.

We appreciate that not every member is going to agree with every aspect of what is proposed. However, it is prudent to actively work with the Retirement Commissioner and other stakeholders to reach agreement on how to address concerns and to have our members agree that their villages will comply with these agreements in the future. By doing this, we have the opportunity to ensure that any changes are reasonable and workable and will reduce the need for and likelihood of legislative change.

1. **Unfair clauses**

The Retirement Villages’ Residents Association (RVR) has identified a number of clauses in ORAs that they consider are “unfair”. These have been discussed at the Residents Advisory Group (RAG) meetings. We agree that some clauses, as framed, are unfair, and we have undertaken to bring these to members’ attention and to encourage you to amend your ORAs accordingly. These are the subject of a separate discussion.

1. **Process**

The process has been and will be:

* Identification of issues and consideration of possible options to mitigate the concerns;
* Consultation with principal members and residents on options;
* Discussion by the Executive Committee on the preferred options based on the consultation, and drafting of the industry best practice remits;
* Circulation of the remits with a brief discussion paper for discussion at the 2022 AGM (Christchurch, Tuesday 23 August);
* Most of the agreed remits will be trialled for 12 months to see how they work in practice;
* The results of the trial will be considered at the 2023 AGM and at this stage there will be an opportunity to fine tune the wording of the remits. If the remits are endorsed, then they will become part of the RVA’s industry standards that will then be required to be complied with by all members and compliance will be audited as part of the standard accreditation process.

1. **Remits for consideration at the 2022 AGM.**
2. **Re-licensing times**

Slow re-licensing times is a key issue for the RVR, which has lodged a petition with Parliament seeking a repayment of the contracted capital sum 28 days after the unit is vacated.

The RVA has commissioned annual surveys of relicensing times from UMR Insight which show that, in 2021, 77% of units are relicensed within six months of vacancy; a further 14% or so are relicensed within nine months, and the balance take more than nine months.

The argument against any hard deadline in legislation has been well-covered in the RVA’s submission to the Select Committee dealing with the RVR’s petition; suffice it to say that any hard deadline raises potential liquidity and cash flow issues for operators that some would not survive and the choice available to residents would be reduced.

1. **Repairs and maintenance to operator-owned chattels**

Lists of chattels

The best practice is to provide a comprehensive list of operator owned chattels, and the operator accepts responsibility for the cost of their replacement, apart from when the need to replacement stems from the resident’s uninsured actions.

Maintenance and replacement

We believe that a best practice approach is the resident is responsible for maintaining and repairing operator chattels, and the operator is responsible for both the cost and replacement of operator chattels when a chattel is at the end of its economic life.

This ensures clarity as to both the operator’s and the resident's responsibility for the repair and replacement of operator-owned chattels. There needs to be a clause excluding deliberate damage to offer the operator some protection if the resident’s carelessness costs uninsurable replacement.

Prospective ORAs

We accept that implementing this policy with existing ORAs could be prohibitive for some operators, so we recommend that it is introduced for all new ORAs entered into after an agreed date. We encourage operators to consider if it is feasible to offer this benefit to existing residents.

1. **Terminating weekly fees on exit**

A growing number of operators choose to stop weekly fees once the unit is vacated (i.e. all the outgoing residents’ possessions have been removed and the unit handed back to the operator) and this approach incentivises the operator to re-licence the residential unit as quickly as possible.

However, we recognise that not all operators can afford to implement such a policy so we are proposing to exempt villages with fewer than 50 units from this requirement.

1. **Transfers to care**

Disclosure around levels of care available and the transfer policy

Following the Retirement Commission’s monitoring report on transfers to care, the RVA developed some best practice standards for disclosures relating to the transfer to care. RVA members are already required to comply with these guidelines and compliance is audited as part of the accreditation process. We recommend that these be incorporated into the RV Code of Practice.

Moving to another facility with the requisite level of care

The RVR has identified that a source of concern for retirement village residents is how a resident can fund the provision of residential care while waiting for their exit payment. While this is not an issue where a resident moves to a care facility operated by the same operator as the village, it can become an issue if the village does not have a care facility or if the resident moves to a facility operated by another care provider.

MSD loans to cover the daily charges for care are available for retirement village residents, but there are conditions that an operator may not be able to meet. In this case, we recommend that the outgoing village operator meets the resident’s daily care costs with the ingoing care operator until the unit is re-licensed and the funds released.

1. Call bells in units

The Health and Disability Commission has highlighted that there can be a misalignment between the expectations of residents (as well as family members) when an emergency call system is used and the actual service that will be provided by a Village.

We consider that operators need to manage residents’ and families’ expectations on what will happen when the call bell is activated.

1. Healthy Homes standards :

The one area where we have identified that residential tenants have greater rights than retirement village residents is compliance with the Healthy Homes standards. The standards introduce, subject to certain exceptions, specific and minimum standards for heating, insulation, ventilation, moisture ingress and drainage, and draught stopping in rental properties.

All private rentals must comply within 90 days of any new or renewed tenancy after 1 July 2021, with all private rentals complying by 1 July 2024. We are of the view that future ORA residents should be entitled to residential units that also meet these standards.

1. **Including the Key Terms Summary (KTS)**

There is a view among stakeholders that there needs to be clearer and more concise summary information available to intending residents, and the RVA’s KTS provides a simple summary of what residents need to know. The KTS has been consulted on with stakeholders and is supported by the Retirement Commission and the RVR.

However, it is available only from RVA members and there is a view that it should be formally included in the information provided to intending residents along with the Disclosure Statement and ORA.

1. **Status of the RVA’s audit**

There is pressure from stakeholders to make the outcomes of the RVA’s compliance audit reports public. The reports will show that an operator has successfully completed their compliance audit as any matters not completed must be re-checked by the auditor until they do comply.

We note that care facility audits are publicly available on the Ministry of Health website. Making the RVA audits similarly available will add to their credibility and could be used as a marketing tool.