



## **Submission by Grey Power Federation New Zealand Inc. on the Review of the Retirement Villages Act 2003: Options for Change**

### **General**

1. Grey Power Federation New Zealand Inc. is a non-party political advocacy organisation comprising 72 independent Associations.
2. The Federation supports the housing concept of Retirement Villages and that they should be regulated by legislation, regulations and monitoring requirements.
3. Federation policy is that all people living in retirement villages, registered and unregistered, should receive fair and just treatment.
4. At this stage, the Federation is aware that many of its 40,000 members live in retirement villages, but not the percentage of the approximately 50,000 retirement village residents.
5. The Federation has an ongoing relationship with the Retirement Villages Residents Association (RVRA) and in principle supports the Association's submission with the following comments:
  - a. **Disclosure statements** – All documentation should be in plain English with a simple 1-2-page summary of conditions and requirements.
  - b. **Occupation right agreements (ORAs)** – The Federation is aware from research and discussion with residents that often there is a lack of understanding by prospective residents regarding their commitments when considering signing ORAs. Paragraph 73a, at page 35 of the Review document, talks about a requirement to 'get independent legal advice'. While any prospective residents should be encouraged to take legal advice, it can be costly and a hindrance to taking an inquiry further.

In terms of paragraph 91 of the Review document and Q12, the Federation supports the appointment of an Independent Villages Ombudsman as a specific power under the Act.

- c. **Maintenance of operator-owner chattels and fixtures** – Referring to paragraph 121 of the Review document and Q17, the Federation supports residents being reimbursed for any fixtures and fittings they supply and are attached to the unit owned by the operator.
- d. **A simple and effective disputes resolution system** – The Federation supports an independent complaints and disputes resolution service for both registered and non-registered villages as set out in paragraphs 140 and 141 of the Review document. While

not having a specific view of where the position should be located, the Retirement Commission would be appropriate. We have not considered a payment system for the service.

- e. **Moving from retirement village living into aged residential care** – The Federation does not have policy on this, but is aware that it is becoming a problem particularly as the resident population ages. A simple but clear indication by the operator of transfer conditions would be useful when a potential resident is considering moving to a village.
- f. **Minimum building standards for retirement villages** – Federation members who live in villages are conscious that new accommodation in a village, which will meet the current building standard are being marketed rather than older accommodation that may not have been maintained to the same level.

The provisions of the Residential Tenancies (Healthy Homes Standards) Regulations 2019 do not apply to ORA. Policy work on this issue should be undertaken.

- g. **Repayment of resident's capital sum** – The Federation does not have policy on the specific time frame for buy-back and takes its lead from the RVRA, which submits that a fair buy-back is 28 days when the resident terminates (keys handed back) and 5 days when the operator terminates.
- h. **Stopping outgoings and other fees** – The Federation policy is that all ORA contracts contain a clause negating the requirement that the resident and/or their successors continue to pay weekly fees upon the unit being vacated – keys handed back.
- i. **Fixed deductions** – The Federation's policy is that all ORA contracts include a clause that weekly fees cease upon the unit being vacated (keys handed back).
- j. **Treatment of capital gains/losses** – The Federation policy is that all ORA contracts include capital loss and capital gains clauses.
- k. **Future-proofing the definition of retirement village** – The Federation supports the use of plain English (or any other language) for all documentation.
- l. **Insurance cover for retirement village operators** – While the Federation does not have policy on insurance for retirement villages, insurance needs to cover the replacement cost of the unit. The ORA holder needs assurance that should disaster strike they will have sufficient capital to move to another suitable dwelling if the operator cannot provide like for like.
- m. **Security of resident's capital sums** – While the Federation does not have policy on this topic, it is essential that resident's capital sums are fully secure.
- n. **Culturally responsive services and models of care** – New Zealand has welcomed culturally diverse migrants who may now be experiencing different models of care from that available in their home country. Many will have experienced multi-generational living, which is not today's New Zealand norm. The Federation supports culturally responsible models of care.

- o. **Roles of government agencies in the retirement village system** – No government agency has overall legislative responsibility for retirement villages. Fragmentation means issues fall through the cracks. The review provides the opportunity to remedy this before a major incident occurs.
- p. **The operation of the Retirement Villages Register** – The Federation supports the changes outlined.
- q. **Code of Practice** – The Federation supports the three statements in question 77, including Sign Language and Braille, and question 81.
- r. **Code of resident's rights** – The following issue was discussed at the HUD workshop in Wellington on 25 October.

Noting the purpose of the Act

S3 (a) *to protect the interests of residents and intending residents of retirement villages:*  
 (c) (v) *“to provide an environment of security and protection of rights for residents of retirement villages:*

and noting the failure of any of the corporate providers to assure residents of guaranteed access to care if needed, the Federation is concerned that the HUD review discussion paper references the “managing” of expectations by residents (page 65).

The use of the term “Managing expectations” is inappropriate and appears to align with the interest of operators, rather than of residents.

Our position is that the onus is on operators to disclose as much information as they hold on care transfer options. The great majority of for-profit operators present continuum of lifestyle with either explicit or implicit reference to care featuring as an inducement to move to their villages. Just what that 'care' option really is needs to be explicitly detailed in occupation agreements at the time of entering into an agreement and updated as recommended below.

While the discussion paper does propose that operators provide disclosure on average occupancy levels this needs to be defined by the occupancy in

- i) rest home
- ii) hospital level
- iii) dementia care

and should include at least 24 months of up-to-date data on bed/occupancy turnover and vacancies such that residents can fully understand the likelihood of care being available at any given time.

The disclosure should detail the extent to which residents in the complex have successfully transitioned to care in the past 24 months and should be explicit around the operator's ability to guarantee care placement either on site or in other accessible locations.

The data should also be updated and supplied to residents on an ongoing/quarterly basis to ensure that residents are fully informed of changes in access to care options for the duration of their occupancy.

- 6. The Federation also has an ongoing relationship with the Retirement Villages Association (RVA).

## **Funding**

7. At a Wellington public meeting a few years ago, John Collyns CEO RVA, and he has recently confirmed this, said that the capital sum paid by the resident(s) under an ORA is used by the owner (company) for -
  - Paying down debt
  - Development of new and maintenance of existing buildings
  - Return on investment to shareholders of publicly listed companies (understood to be consistently 2-3% annually).
8. This raises the question of whether the funding model for development is fit for purpose in the sense that the percentage portion of the capital sum paid under the ORA may not be available for repayment when the keys to the room/unit are handed in after a resident's death or transfer to a different service. It is **recommended** that the funding model be reviewed to determine whether it is fit for purpose.
9. Should further protection of the resident's capital sum be regulated, monitoring could be the responsibility of the Statutory Supervisor.

## **Mix of accommodation**

10. The Federation acknowledges that commercial, charitable, and social housing organisations provide accommodation for older people. The changing demographic and ageing of New Zealand society, including insufficient social housing and the financial restraints on older people, will require a mix of ORA and rental accommodation.
11. It is **recommended** that to meet the future needs of older people, if required, any changes to the legislation, regulations and monitoring make provision for different accommodation models.

Colleen Singleton  
Chair, Retirement Villages National Advisory Group  
On behalf of Grey Power Federation New Zealand Inc.