

Retirement Village Intending Residents and the Effectiveness of Legal Advice

Monitoring Report

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EXECUTIVE SUMMARY

Introduction

Any intending resident of a retirement village must receive independent legal advice before signing an Occupation Right Agreement (ORA) about the general effect of the agreement and its implications. Lawyers are obliged to provide their advice in a manner and language appropriate to the age and understanding of the intending resident and certify that they believe the advice is understood. Those requirements reflect both the potential vulnerability of intending residents and the seriousness of the commitment intending residents are making. Some intending residents have the resources to leave a retirement village if they find that retirement village living is not to their taste. Many residents, however, would find leaving and re-housing themselves difficult financially.

Requiring intending residents to take independent legal advice prior to signing an ORA is one of a number of protections provided for by the Retirement Villages Act 2003 which the Commission for Financial Capability (CFFC) monitors on a rolling basis. This monitoring research has been commissioned by the CFFC “to determine the level of effectiveness of independent legal advice for intending residents making a decision to move to a retirement village.”

Research scope and method

This monitoring research has taken a comprehensive, multi-method approach to exploring the transaction of legal advice, its scope and coverage. It has:

- Explored residents’ and lawyers’ views around the robustness and effectiveness of independent legal advice.
- Considered the extent of satisfaction with current requirements.
- Identified some opportunities to support intending resident decision-making and lawyers in their provision of advice to intending residents.

Data was collected from older people seeking advice around retirement villages and lawyers who have provided advice around ORAs in the last two years. Robustness, richness and depth of understanding were generated by triangulating:

- Reflection and thematic analysis of previous CFFC monitoring research and a number of other substantial research programmes into retirement villages and their residents.
- Collection of new primary data through surveys, in-depth interviews and focus groups.

Those were:

- Three self-complete surveys. Two surveys respectively with older people considering retirement village living (n=51) and residents who had recently taken up retirement village living (n=88). The third survey was with lawyers providing advice to intending residents (n=127). The latter accounted for a substantial number of new residents within a two year period.
- Focus groups and in-depth interviews with new residents and lawyers. Eighty-three new residents were involved in focus groups and five in in-depth interviews. Seven in-depth interviews were held with lawyers. Qualitative data collected covered seven regions.

Key insights

- Overall the research established that satisfaction with current requirements is high for intending residents, and the framework and advice practices of lawyers are effective and appropriate.
- There is widespread awareness among intending residents that the purchase of a license to occupy in a retirement villages is of use value, not of asset or investment value.
- New retirement village residents overwhelmingly only considered the retirement village option when thinking about their housing options.
- Older people who attended the CFFC seminars showed a wider consideration of housing options and some decided that retirement village living was not for them.
- Intending residents tend to seek advice from lawyers with whom they already have a relationship.
- As well as lawyers, family, friends and retirement villages are important sources of information.
- Intending residents are diverse and broadly fall into three categories:
 - Those who are highly informed and have done considerable research in retirement villages.
 - Those who engage actively with their lawyers and ask questions about the conditions and implications of an ORA.
 - Those who understand the advice they are given but are passive recipients of it and rely on their lawyers to protect their interests.
- Lawyers typically have experience in the retirement village sector and firms provide supervision and support to less experienced lawyers.
- Advice related to retirement villages is frequently undertaken in tandem with advice relating to other property, estate, and succession planning matters.
- All lawyers see their core obligations as explaining the contractual terms of the ORA. Some lawyers largely focus on the terms as they are set down. Two other approaches are evident beyond this administrative approach. Those are a pastoral approach and a negotiator approach.
- Most lawyers consider that they have sufficient information but a substantial minority consider that their ability to advise clients about retirement villages could be enhanced with better information and understanding of developments within the retirement villages sector.

Key conclusions

The key conclusions around intending residents in relation to the effectiveness of independent legal advice are:

- Intending residents are aware of the requirement to receive independent legal advice prior to signing an ORA.
- Most intending residents see their lawyer only at the point of signing an ORA.
- Most intending residents report understanding the information they receive.
- Most intending residents are satisfied with the legal advice they have received.
- Intending residents do not want to use a lawyer specialising in retirement villages.

- There is no demand among intending residents for financial investment advice, although tools to assist them to think about budgeting under different scenarios would be welcomed.
- Many residents find Disclosure Statements overly legalistic, inaccessible and too often duplicating the ORA.

The key conclusions around lawyers and the legal advice they provide to intending residents are:

- Most lawyers advising intending residents have repeated experience of providing advice on retirement villages.
- Lawyers recognise that many intending residents are psychologically committed to a retirement village and:
 - Emphasise and follow-up on cooling off periods.
 - Provide oral and written advice.
 - Attempt to ensure that family are informed while maintaining the independence of the intending resident and their understanding of ORAs.
- Lawyers recognise that the retirement village sector is dynamic and would welcome:
 - Additional information around directions in the sector.
 - More opportunities to network and receive training.
 - Access to websites and resources to which they can refer clients.
- Some intending residents find some material burdensome or confusing, in particular the Disclosure Statement and rely on their lawyers to help them through it.
- Lawyers, like intending residents, find Disclosure Statements overly legalistic, inaccessible and too often duplicating the ORA.
- Some areas of advice could be given great and more consistent coverage by lawyers, particularly around:
 - Implications of movement from independent units to serviced apartments or from village to residential care.
 - Implications of remarriage or marital breakdown.
 - Issues around couples who straddle the age eligibility of a retirement village.
 - Access to publicly funded services by non-village providers such as DHB-funded in-home support.
 - The interface between retirement village and residential care.

Supporting lawyers and enhancing decision-making by intending residents

The CFFC could:

- Consider developing a scenario-building tool for retirement village living, similar to ‘get sorted’ for older people and lawyers to test the impacts of different scenarios on the budget implications of retirement village living.
- Encourage increased opportunities for lawyers to increase their awareness of:
 - information around retirement villages and trends
 - resources available to intending residents.
- Provide guidance to lawyers around: the definition and scope of the statutory reference to ‘implications’; and the boundary between financial advice and advising on budgetary, property and related matters.

- Work with the sector, lawyers and residents to improve the accessibility and utility of Disclosure Statements.

1. INTRODUCTION

The Commission for Financial Capability (CFFC) has two critical roles in relation to retirement villages. The first lies in the CFFC's broader mandate to promote financial literacy, which supports people to make effective decisions for their retirements. The second lies in the CFFC's particular statutory responsibilities set out in the Retirement Villages Act 2003. Both those roles are reflected in the CFFC's commissioning of the research reported here, which is designed "to determine the level of effectiveness of independent legal advice for intending residents making a decision to move to a retirement village."

This monitoring report presents the findings of multi-method research into the effectiveness of independent legal advice accessed by intending residents and provided by lawyers in New Zealand advising people about to sign occupation right agreements (ORA) in a retirement village. The report is structured as follows:

- Section 2 provides a brief overview of the requirements around legal advice for those signing ORAs.
- Section 3 provides a contextualising summary of previous monitoring and research around retirement village residents.
- Section 4 overviews the focus and methods used in this monitoring project.
- Section 5 focuses on the nature of the legal advice that older people received when they were intending residents of retirement villages.
- Section 6 primarily focuses on lawyers' perspectives and experiences of providing legal advice to intending residents.
- Section 7 provides conclusions and recommendations. It:
 - Notes the high levels of satisfaction among residents with the legal advice provided to them during the ORA signing process;
 - Sets out a typology of the way in which lawyers approach the provision of legal advice;
 - Emphasises the diversity of intending residents and segments their approaches to decision-making and receiving legal advice; and
 - Suggests ways in which the effectiveness of independent legal advice could be further enhanced.

2. RETIREMENT VILLAGES AND LEGAL ADVICE

The provision and acquisition of legal advice is a mandatory component of the process of purchasing the right to reside in a retirement village. All those intending to enter into a contractual relationship with a retirement village through an ORA must seek legal advice. Village operators are required to provide four key documents – the ORA, a Disclosure Statement, the village Code of Practice and the Code of Residents' Rights. Under Section 27 of the Retirement Villages Act 2003, intending residents must:

- receive independent legal advice before signing the ORA
- have their signature witnessed by a lawyer.

The lawyer must also certify that, before the intending resident signed the agreement, the lawyer explained to that person the general effect of the agreement and its implications. This

explanation must be given in a manner and language appropriate to the age and understanding of the intending resident.

Lawyers are not required to provide financial advice, but the Act does require legal advisors to explain the general effect of the ORA and its implications. The terms ‘general effect’ and ‘implications’ are not defined, but by the nature of the ORA as defined in Schedule 3 of the Act, it would include financial implications. Among the financial aspects included in the ORA are: village accounts, termination of the agreement and service charges. The associated Disclosure Statement (Schedule 2 of the Act) includes a wide variety of financial matters concerning the running of the village.

The generality of those expectations means that lawyers can provide advice over a range of different dimensions of retirement village living, including the contractual and financial implications of entering a retirement village. Prior to this monitoring project, very little was known about the scope of advice provided, the provision or referral of intending residents for financial advice, or the extent to which lawyers require resources and guidance to ensure that the legal advice is effective. There were some indications that some intending residents have already effectively made their decision, both about retirement living in general and a specific village, prior to meeting with a legal adviser. Some lawyers reported that this means that the effectiveness of the advice they give can be limited to simply ensuring that intending residents understand the ORA and ancillary documents.

3. A SUMMARY OF PREVIOUS MONITORING AND RESEARCH

Previous monitoring and research projects identify a number of themes pertinent to this study.¹

3.1 Monitoring

Information sources: Those can be divided broadly into: information sources, the areas of advice typically covered by legal advisors, and areas of confusion and difficulty for intending residents.

There is strong reliance on family and friends as providers of information and advice, although ultimately most intending residents make the decision themselves. There is little use of professional advisors or recourse to technical information.

Legal advisors confirm both the important role of friends and relatives as sources of information and little use of professional and technical advisors. The involvement of family members is generally supported by legal advisors, and it is seen as an important component in avoiding later disputes.

¹ K. Saville-Smith and B. James, 2015, *Retirement Villages: advice, information and education*. Report prepared for the Commission for Financial Capability; B. James with CRESA, 2015, *Retirement Villages Act Monitoring Project: Disputes Process Report 2: The practice, experiences and views of dispute resolution*. Report prepared for the Commission for Financial Capability; B. James and K. Saville-Smith, 2011, *Retirement Villages Act 2003 Monitoring Project Residents’ Perspectives*. Report prepared for the Retirement Commission.

A considerable amount of statutory and other information is provided by villages to prospective residents on their websites and directly from villages. Residents appear to rely heavily on this information.

Typically, legal advisors see intending residents only when they have chosen the village. Almost two-thirds of lawyers in the *Advice, information and education* monitoring project reported that the client has already applied to the village and/or paid a deposit, and/or wants to sign their occupation right. This reinforces the need to focus on ensuring the client's understanding of their rights, responsibilities and obligations of the contract.

Other New Zealand research on older movers confirms that, when seeking information older people rely predominantly on their own knowledge and life experience. When they do seek information from others it is generally from family and friends.²

Areas of advice typically covered by legal advisors Lawyers provide a core of advice to intending residents that focuses on contractual rights and obligations, such as the occupation right, implications of sale of the occupation right, agreements around deferred maintenance, the services provided and fees. Legal advisors also tend to provide advice around the Code of Practice and village rules. In addition, about one third of lawyers in the *Advice, information and education* monitoring project discussed whether the village lifestyle will fit the intending resident's needs.

It is common for lawyers to deal with wills, power of attorney, advanced directives and family trust matters as part of their advice around living in a retirement village.

Confusion and difficulty experienced by intending residents Past monitoring reports have noted some residents' confusion over the meaning and implications of the license to occupy tenure. However, this issue is far less apparent in the current monitoring project. Both lawyers and residents have commented on the confusing and onerous nature of key documents, particularly the Disclosure Statement, including repetition of detail and lack of summaries of important 'need to know' information. Legal advisors have reported that most prospective residents have thought about the possibility and implications of residential care for themselves or their partners. However, prospective residents give little thought to:

- The potential that they might move from a village.
- The interface between the retirement village and its services and the provision of services that are provided through the publically funded health and social services system, such as in-home support and home modifications.
- Exposure to future costs.

² B. James 2016. *The Meaning and Experience of Downsizing: Older People's Perspectives*. Report Prepared for the Finding the Best Fit Research Programme.

Residents have noted areas where there is little awareness or understanding, including:

- The role of statutory supervisor.
- Buying and selling a village and change of operator.
- The village memorial of title.
- Government agencies with a role in administering legislation relating to retirement villages.
- The role of residents committees.
- Complaints and disputes procedures.

Residents and lawyers have commented that more information is needed about the range of services provided, including:

- The resident's and the operator's respective responsibilities around repairs and maintenance.
- Conditions, processes and implications of movement to residential care.
- What is covered in core service fees and what is 'pay as you go'.
- The trajectory of likely service charges into the future.

There are instances where there is no clear policy or different policies are contradictory. The main example of this is around village entry ages and the treatment of under-age partners. Residents have articulated a difference between their understanding of matters in the occupation right, and not appreciating the meaning and implications of their contracts at the time of signing up. This appreciation may not occur until months or years later in relation to a specific situation arising in the village. Both residents and legal advisors have said that they would like ways of easily comparing villages and summarising differences between them. Lawyers have indicated an interest in checklists to assist them to identify the range of issues which they might wish to review in providing advice, as well as checklists for intending residents to which they can refer clients.

3.2 Downsizing and Resilience Research Programmes

In addition to monitoring undertaken by the CFFC in the context of its responsibilities for the effective operation of the retirement village sector and the appropriate protections of residents, there have been a number of substantial research programmes that have given attention to retirement village residents. Those include investigations around retirement village choices as well as research into older people's resilience and older people's downsizing aspirations and experience.³

³ M. Simpson, 2007, *Organisational Transformations in the Retirement Village Sector: A critical-rhetorical and –discursive analysis of promotion, community and resident participation*. A thesis submitted in fulfilment of the requirements for the degree of Doctor of Philosophy at the University of Waikato, Hamilton; M. Craig, 2007, *Dispute Resolution and the Retirement Villages Act 2003: A fair and independent process?* Thesis submitted in fulfilment of the requirements for the Degree of Master of Laws, University of Waikato, Hamilton; S. Greenbrook, 2005, *Village People: The changing role of retirement villages in New Zealand's ageing society*. Thesis submitted in fulfilment of the requirements for the Degree of Master of Arts in Geography, Auckland, University of Auckland; L. Leonard, 2002, *Retirement Villages: Promises of a Lifestyle*. Masters Thesis, Sociology. Christchurch: University of

While the focus of those research programmes vary and stretch over a decade, they share a number of common themes including:

- The vulnerabilities of older people because decisions to enter retirement villages are frequently fraught with anxieties around health, ability of family to support older people, or shocks such as the death of a partner.
- The lack of housing options for older people seeking to downsize.
- A potent perception that retirement villages will address fears around access to care combined with a low management, low responsibility lifestyle.
- The wealthier profile of retirement villages residents than older people outside of villages.
- The potential for misalignment between income and expenditure associated with changes in consumption within villages and the non-discretionary nature of fees.
- The profundity of the choice that older people make in purchasing LTOs which for many will close off future choices for housing in the open market.

Those issues are recognised by both the retirement village sector and regulatory agencies. It is in that context that the mandatory receipt of independent legal advice has been implemented.

4. FOCUS AND METHOD

This research is intended to assist the CFFC determine whether the requirement for independent legal advice achieves the aims of the Retirement Villages Act 2003 and protects intending residents' interest in the village. To support the Act's aims and protections, the CFFC requires information from the research to assist in the design and delivery of a range of informational and educational resources for the retirement village sector that will ensure that intending residents receive from lawyers appropriate information, which helps them make appropriate decisions.

The CFFC has identified a number of potential direct actions that may be pursued subject to the findings of this research. Those include:

- resources for intending residents;
- training for lawyers in relation to advice on retirement villages;
- checklist guidance for lawyers;
- consideration of the treatment of financial advice by lawyers; and,
- alternative options and mechanisms for providing financial advice.

Canterbury; K. Diesfeld and I. McIntosh (eds) *Elder Law in New Zealand* New Zealand: Thomson Reuters; K. Saville-Smith, B. James and M. Rehm, 2016, *Equity release – realities for older people*. Wellington: Centre for Research, Evaluation and Social Assessment; B. James, 2016, *The Meaning and Experience of Downsizing: older people's perspectives*. Report prepared for the Finding the Best Fit research programme.

To assess the ways in which the CFFC might best support lawyers advising intending residents and older intending residents' decision-making, the CFFC wishes to better understand:

- Intending residents':
 - awareness and understanding of the requirement to receive independent legal advice
 - reasons for, and extent to which they seek legal advice beyond current requirements
 - processes of seeking and receiving independent legal advice
 - understanding of the information and contractual documents they receive
 - advice wants, needs and expectations, including financial advice
 - experiences of, assessments of, and satisfaction with legal advisors
 - costs of receiving advice.
- Lawyers':
 - experience and familiarity with retirement villages
 - practices in explaining the contractual documents
 - experience of the advisory role
 - range and detail of advice provided, including financial advice, and the implications of moving to a village
 - views on the resources and support needed to help lawyers discharge their professional duty of care.
- The role of family members in receiving legal advice, their awareness of the requirement for legal advice, how they seek and receive that advice and their level of satisfaction with that advice.
- Whether additional types of independent advice, such as financial advice, are necessary.

4.1 Monitoring Independent Legal Advice and Its Challenges

There are undoubted challenges in monitoring the provision and effectiveness of independent legal advice to intending residents. These are not restricted to the problem of accessing intending residents, there is also the issue of how to measure the concept of effectiveness.

New residents participating in the forum groups convened for the monitoring project themselves acknowledge that it is difficult to assess whether their lawyer explained and they understood all the information regarding the implications of retirement village living and the ORA they signed. Indeed, the adequacy of the legal advice they were given and the residents' understanding may only be revealed under the stress of particular events, which may or may not actually arise over the medium and long terms. The problem here is that residents who have been living in a retirement village for a medium to long term may have difficulties in recall. In addition, there are potentially problematic aspects of directly accessing intending residents who are in the process of taking independent legal advice and signing ORAs. In particular, it is critical that research activities do not impact on or interfere inappropriately on an intending resident's relationship with either a retirement village or receptivity to the legal advice they are receiving.

4.2 Monitoring Approach

To meet these challenges, this monitoring project has taken a discursive, multiple actor approach. That approach explores the effectiveness of legal advice by:

- Engaging with the two key actors in what might be broadly referred to as the transaction of provision and receipt of legal advice. These are, older people seeking advice and lawyers providing advice.
- Exploring with both actors in the transaction of legal advice, the scope and coverage of that advice.
- Exploring with new residents, as proxies for intending residents, their access to, satisfaction with, reflections on the understanding of the legal advice they received, and confidence in their decisions.
- Exploring with lawyers, as providers of legal advice, their experience with advising on retirement villages, understanding of and approach to their statutory role, and confidence in their provision of advice and its effectiveness.

4.3 Data Collection

As Section 3 notes, this discursive approach has been informed by previous research and monitoring with retirement village residents, older people, lawyers and retirement village operators. New primary data have been collected using both qualitative and quantitative methods. Data collection is as follows:

- Surveys:
 - Lawyers Survey – Self-complete, online.
 - 127 lawyers participated of whom 113 provided independent legal advice to intending residents in the last 2 years.
 - Collectively account for 1,445 retirement village residents.
 - CFFC Seminar Survey – 51 older people attending seminars, contacts provided by CFFC.
 - New Residents Survey – 88 new residents (moving in since January 2016), recruited from retirement villages, primarily those with significant intakes of new residents and involved in focus groups.
- In-depth interviews:
 - Seven lawyers
 - Five new residents
 - One intending resident who exited during the cooling-off period
- Focus Groups
 - Eleven groups
 - 83 participants
 - Mix of independent, not for profit and corporate retirement villages
- Regions with qualitative data collection:
 - Auckland
 - Tauranga
 - Rotorua
 - Hamilton and the Waikato
 - Wellington and Kapiti Coast
 - Nelson
 - Christchurch
 - Invercargill

Surveying

Three surveys were undertaken. Two of these were with people who may be seen as intending residents, either because they have been considering retirement village living or they are new residents who have taken up retirement village living. The third survey was with lawyers providing advice to intending residents.

- **CFFC Seminar Attendees Survey.** The Commission for Financial Capability runs regular seminars on retirement village living for intending residents and their families, designed to provide those intending residents with the information they need to make choices about whether retirement villages are right for them and what they need to know if they want to explore the retirement village option further. The Commission supplied a database of seminar attendees along with email addresses. From this database a total of 99 potential email contacts were identified.

A short self-complete survey was designed in Survey Monkey. The self-complete survey was directed to establishing how people make contact with lawyers, their awareness and understanding of the requirement to receive independent legal advice, the extent to which they had already sought information and advice, the sorts of information and advice they want and their satisfaction with legal advice.

In early February 2017 all 99 identified contacts were sent an email containing a brief overview of the research and two survey links – one to be used if the individual had attended the seminar on behalf of themselves as an intending resident and the other to be used if they were attending as a support person, family member or in a professional capacity (for instance a lawyer or accountant). In addition, all survey contacts were given the option of being sent the survey in email form they could complete electronically or in hard copy and send back or via a phone interview.

The survey links remained open until the end of February. Six of the 99 email contacts were incorrect and unable to be used. Of the remaining 93, we received 54 completed survey returns – 51 from intending residents, and 3 who completed the survey link designed for advocates, professionals or family members. Annex A presents the questionnaire.

- **New residents survey.** The dispersed nature of new residents in retirement villages meant that a fully randomised and independent sampling of residents through traditional telephone surveying using randomly selected telephone numbers was not possible. A targeted approach was used which involved coupling with the focus groups and asking twenty-four new villages and those with substantial new developments to make new residents aware of an opportunity to participate in the survey. Questionnaires were provided for self-completion and a free-phone was provided for new residents who wished to be interviewed by telephone. The questionnaire is attached as Annex B.

The socio-demographic profile of the 51 people who participated in CFFC seminar attendees survey and the 88 people participating in the new residents survey is set out in Table 4.1.

Table 4.1 Characteristics of Participants in the New Residents Survey and the CFFC Seminar Attendees Survey

Profile Characteristic	CFFC Seminar Attendees Survey (n=51)		New Residents Survey (n=88)	
	Participant	% Participants	Participant	% Participants
Sex				
Male	28	55	36	41
Female	23	45	52	59
Age				
55-64 years	2	4	2	2
65-74 years	26	41	27	31
75-84 years	18	35	50	57
85 years or over	2	4	9	10
Not specified	3	6	0	-
Household Composition				
Lives alone	12	24	41	47
Couple only	33	65	47	53
Couple with dependents	2	4	0	-
Others	1	2	0	-
Current Driver's License	51	100	76	86
In-Home Help	6	12	15	17

- The Lawyers Survey. The survey was targeted to lawyers who had provided advice to clients at some point in the past two years around the possibility of buying into a retirement village – either for themselves or a family member. As we did not have a pre-identified survey population who met the eligibility criteria an open survey format was needed. An online survey was developed so that lawyers could be directed to the survey through multiple sources.

To recruit lawyers for the survey the CFFC provided the New Zealand Law Society (NZLS) with a summary about the project and a link to the lawyers' on-line survey for their weekly electronic bulletin Law Points. To supplement recruitment CRESA sent a direct email individually to all lawyers who had completed a lawyer's survey for the *Retirement Villages: Advice, Information and Education* project in 2015 as well as a small number of lawyers not in that set who were identified as specialists in Elder Law. All lawyers emailed were encouraged to share the survey with others in their practice or networks. NZLS ran a reminder about the survey in their Law Points bulletin in early February 2017. The survey was pilot tested with three lawyers in November 2016 and then officially opened in December 2016 and closed at the end of February 2017.

The questionnaire explores with lawyers, at what stage in the process intending residents seek their advice, the range of documents and areas of information they typically advise clients on, the average length of time spent with clients, whether they refer clients to any other sources of information and advice, and their views on whether specific areas of information could be improved for intending residents (see Annex C). Of the 127 lawyers who participated in the survey, 113 had provided advice around retirement villages to clients in the last two years.

Focus Groups and Interviews

The focus group method is a qualitative method that enables a detailed exploration of experiences and issues that cannot be achieved by a survey. Through open-ended conversation and discussion with other participants, the differences, similarities and complexities of experience can be illuminated. Focus groups are not designed to generalise findings to a whole population in a statistically representative way.

The ages of the 83 focus group participants ranged from late 60s to over 90. The majority were aged between 75-84 years. Participants had moved to their village within the last 12 months and a few had been resident for less than two months. The large majority have a licence to occupy. Most residents live in large villages, with 85 or more units. However, one village has less than 30 residents. Residents from corporate, individual company and not-for-profit villages were involved. Most residents live in villages with aged residential care facilities located in the same complex. In addition, five in-depth interviews were conducted with recent residents.

Qualitative data from focus groups and interviews were subject to thematic analysis with a focus on:

- awareness and understanding of the requirement to receive independent legal advice
- processes of seeking and receiving independent legal advice
- information and advice wants, needs and expectations
- the range of information and advice sought from legal advisors
- the extent to which financial advice is sought
- understanding of the information and contractual documents they receive
- sources of information and advice, other than legal advisors
- costs of receiving legal advice
- what's important for intending residents to know
- assessments of, and satisfaction with legal advisors.

The in-depth interviews with lawyers were designed to explore particular aspects or dimensions of the data emerging from the surveys and focus groups. In particular, issues around the meaning of independence in the context of legal advice, the boundary of legal advice, and advice on the implications of ORAs.

4.4 Analytic Approach

The strength of a multi-method approach is that it provides, firstly, a set of rich data that allows interpretation of the patterns of behaviour, experience and attitude, as well as the more nuanced and in-depth reflection and narratives. Secondly, those rich data sets increase the robustness of any analytic interpretation of the data. It does this in a number of ways. Firstly, and most importantly, it allows the complexity of situations to be explored because the data reflects the experiences, perspectives and activities of actors in different positions and with different standpoints. Secondly, triangulation provides an opportunity to explore the regularities and irregularities evident in the data around shared events, processes and relationships. In doing so, triangulation allows analysts to explore whether those regularities and irregularities are artefactual or real. That is whether they arise out of problems with the reliability or validity of the methods, or, alternatively, represent misalignment in perspectives

held by different actors involved in the experience of, in this case, the provision and receipt of legal advice.

5. INTENDING RESIDENTS

Key Insights

- There is widespread awareness that purchase of license to occupy in a retirement villages is of use value not of asset or investment value.
- New retirement village residents overwhelmingly only considered the retirement village option when thinking about their housing options.
- Older people who attended the CFFC seminars showed a wider consideration of housing options and some decided that retirement village living was not for them.
- As well as lawyers, family, friends and retirement villages are important sources of information.
- In general, intending residents are aware of the requirement to receive independent legal advice prior to signing an ORA.
- Intending residents tend to seek advice from lawyers with whom they already have a relationship.
- Intending residents do not want to use a lawyer specialising in retirement villages.
- Most intending residents see their lawyer only at the point of signing an ORA.
- Most intending residents report understanding the information they receive.
- Most intending residents are satisfied with the legal advice they have received.
- Some intending residents find some material burdensome or confusing, in particular the Disclosure Statement and rely on their lawyers to help them through it.
- Residents can be anxious about budgeting and expenditure if their circumstances change.

This section is concerned with ten aspects of the acquisition and effectiveness of legal advice as those relate to intending residents. Those are:

- Awareness of legal advice requirements.
- Selection of legal advisors.
- Expectations of and receptivity to legal advice.
- Residents' reports on the scope and coverage of advice provided by lawyers.
- The information and advice proactive residents ask of their lawyers.
- Other sources of advice accessed by intending residents.
- Satisfaction with legal advice.
- The confidence residents express in their decision to enter a retirement village.
- Areas in which residents express ambivalence or anxiety.
- A brief note on residents' information sought for good decision making.

Those aspects have been explored through research engagement with intending residents, retirement village residents, lawyers and a small set of others concerned with supporting older people making housing choices who participated in the CFFC seminars.

5.1 Awareness of Legal Advice Requirements

In general, recent residents participating in the focus groups were aware of the requirement to receive independent legal advice. Only a few commented that they were not aware of that requirement or did not have a clear understanding of what the requirement meant. The large majority understood ‘independent’ as meaning a legal advisor who did not act for the village. In some cases, where participants are involved in family trusts, they also emphasised that they were careful to use a solicitor who was not used by their children. This comment was typical:

“My lawyer had done it before and was very clear about conflict of interest. He explained if he had been a lawyer for the owner he wouldn’t have been able to act for us.”

Some focus group participants had found out about the requirement from their solicitor, as part of selling their own house. Others had been told of the requirement by the village manager or sales person. The survey data suggest that a substantial minority of intending residents found out about the requirements for legal advice from retirement villages. Around 22 percent of new residents reported finding out about the requirement from the village operator or from an employee of the village. It is notable, however, that the selection of a particular lawyer to provide that advice did not show a village influence (see Section 5.2), although in four focus groups, there was some suggestion of villages recommending a particular lawyer or providing a list of lawyers for intending residents.

Participants were asked what they thought of the requirement to receive independent legal advice. All except two focus group participants supported this requirement. Some commented that, whether it was a mandatory requirement or not, they would have sought independent legal advice anyway. The few who did not support the requirement considered that it should be a choice.

5.2 Selection of Legal Advisors

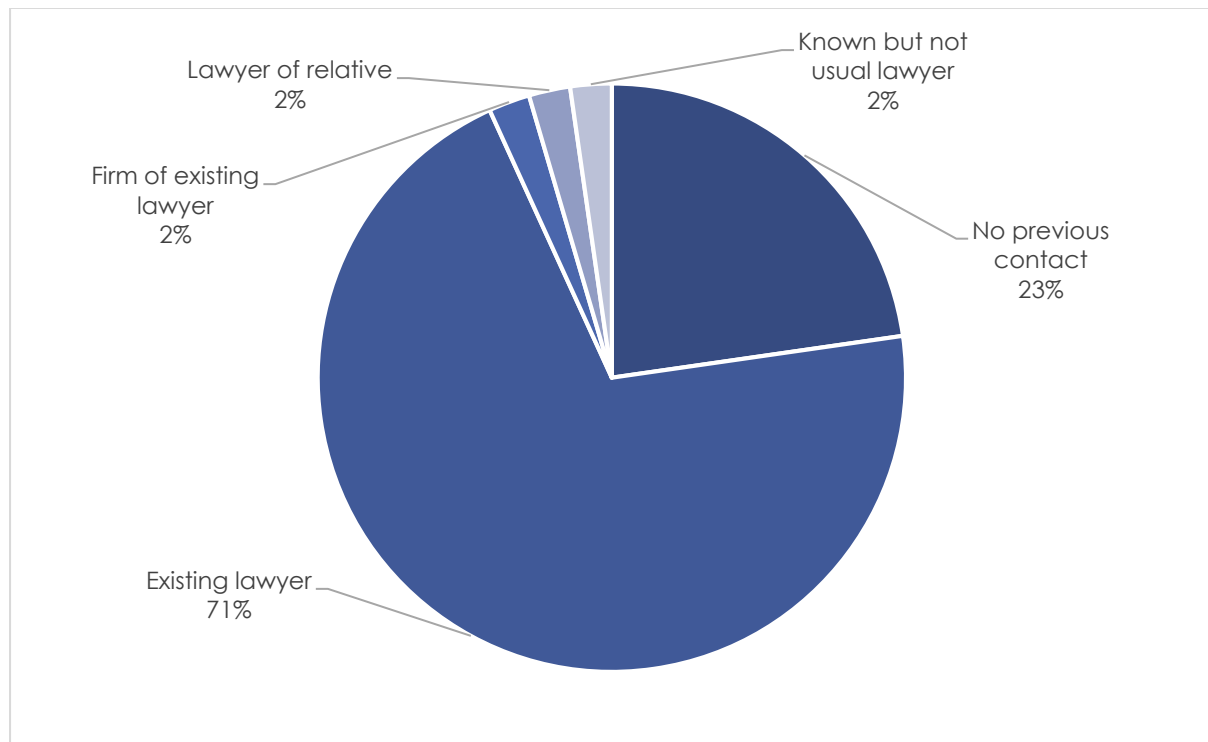
All the datasets show that intending residents overwhelmingly sought advice from their existing lawyers. Nine of fifty-one attendees of the CFFC’s seminars participating in the subsequent survey, reported that they had moved into a retirement village. Of those, over two thirds reported that they used their usual lawyer. The importance of existing lawyers and their firms in providing independent advice is also evident among the new residents in retirement villages (Figure 5.1).

The most common reasons for participants using a legal advisor different from their usual lawyer were:

- The intending resident was moving to a village in a different area and wanted a solicitor in that area. Generally, they sought a solicitor familiar with the village to which they were moving.

- The intending resident and other family members shared a solicitor and they needed to obtain independent advice about such matters as a family trust, power of attorney or wills.
- The intending resident's usual solicitor acted for the village.
- Retirement village matters were dealt with by another solicitor or legal advisor within the firm.

Figure 5.1 Recent Residents' Lawyers Providing RV-Related Independent Advice (New residents survey n=88)



There was discussion about whether it is preferable to use one's usual solicitor or a specialist in retirement villages. On balance, participants considered that they would prefer a solicitor they had dealt with before, although there were clear expectations that the solicitor, whether one's usual or another, should be familiar with retirement villages, the legal framework and documents. Participants said:

"Our lawyer was up on it, you need to have a lawyer that knows about the Act."

"He's very capable, as experienced as anybody."

"We wanted to make sure he was familiar with the industry, and preferably the village."

The benefit of using one's usual solicitor was considered by focus group participants to be that the lawyer knew the intending resident's circumstances and needs:

"They know your financials. I don't think a specialist lawyer.... They might know what is happening with the company, but they don't know you and your capabilities and needs."

"You feel more comfortable with who you know."

"I felt that my lawyer felt he knew me well enough to feel I was making the right decision for me."

5.3 Expectations of and Receptivity to Legal Advice

There appears to be a potential contradiction between what intending residents expect from their legal advisor and their receptivity to the legal advice provided to them:

- On the one hand, intending residents have high expectations that their lawyer will identify anything material or problematic in an ORA.
- On the other hand, there is a pronounced tendency for intending residents to have already decided on both: the desire to live in a retirement village, and a particular retirement village.

Around 84 percent of the participants in the new residents survey reported that they had not considered any other housing-related option (Figure 5.2). Notably, the attendees to the CFFC seminars showed a somewhat different pattern (Figure 5.3) with 61 percent reporting that retirement villages were one of a number of options being considered.

Similarly in the focus groups, a number of participants commented that they had already made the decision to move to a particular village and the meeting with the solicitor simply implemented their decision. In some instances participants commented that that they had to move quickly to secure a unit they liked.

“[My lawyer knew it needed] tying up.”

“Just made the decision that we wanted to come [to a village] and came. Looked, liked it and just put it in the hands of the lawyer.”

“Can’t wait around – high demand, waiting lists for villages!”

Those patterns are consistent with lawyers’ views around the expectations and receptivity of intending residents to legal advice.

Figure 5.2 Recent Resident Consideration of Housing Options (New residents survey n=88)

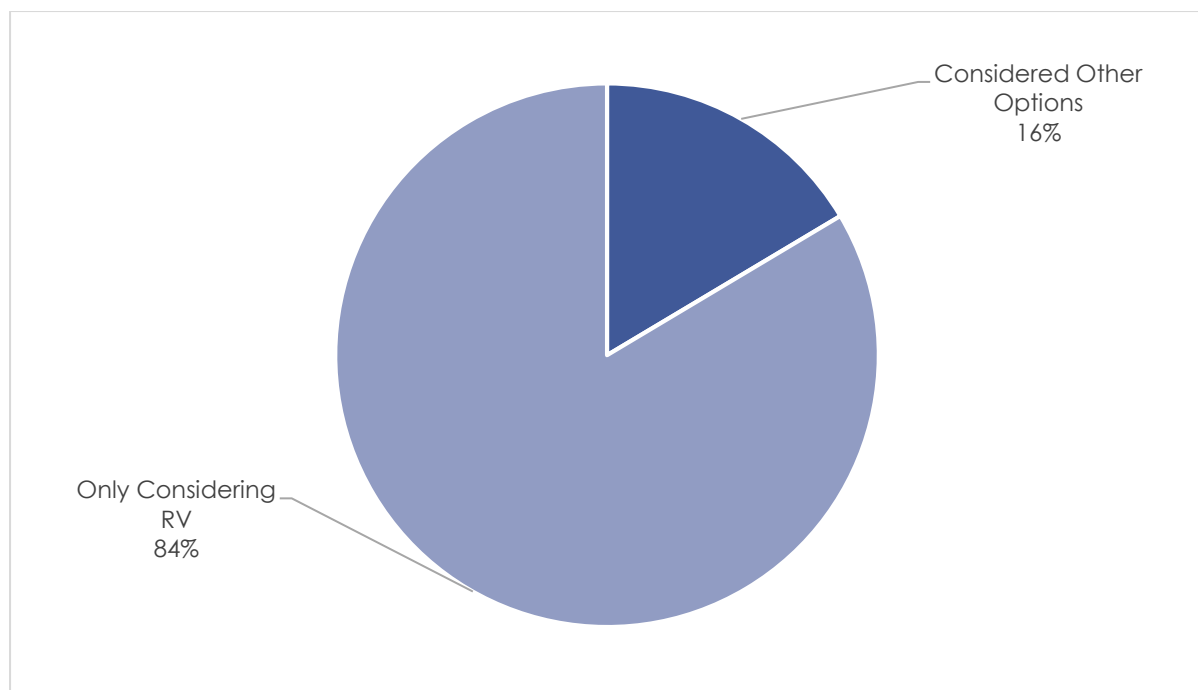
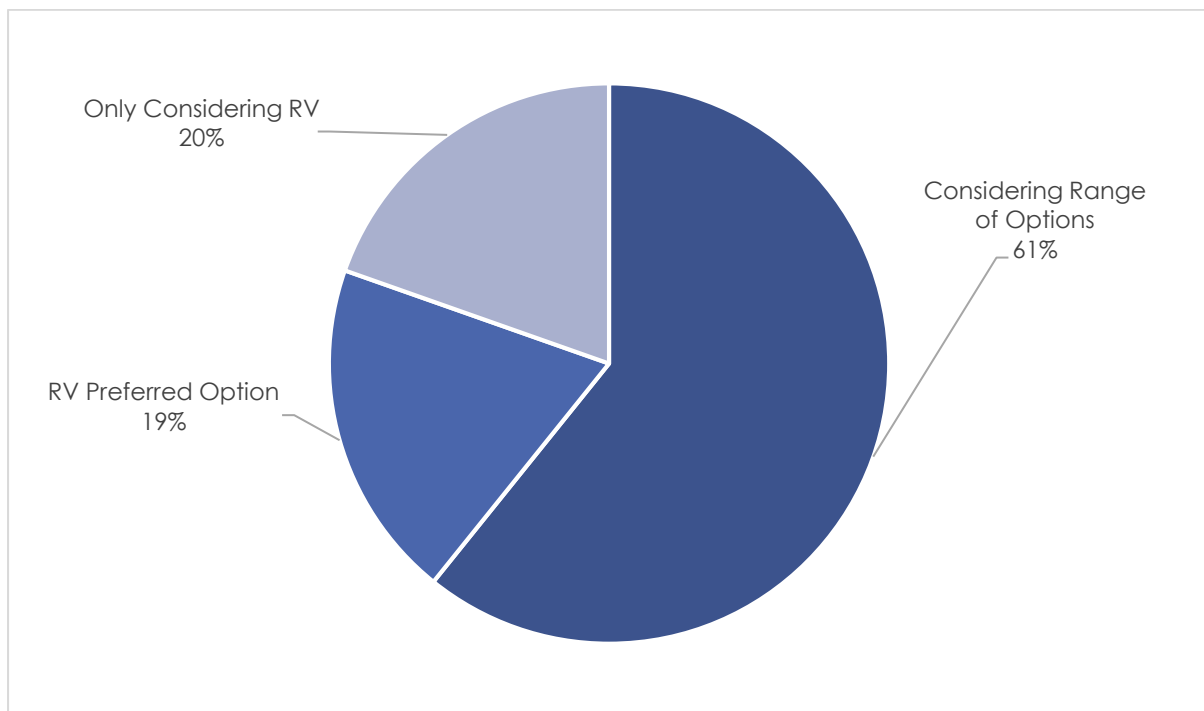
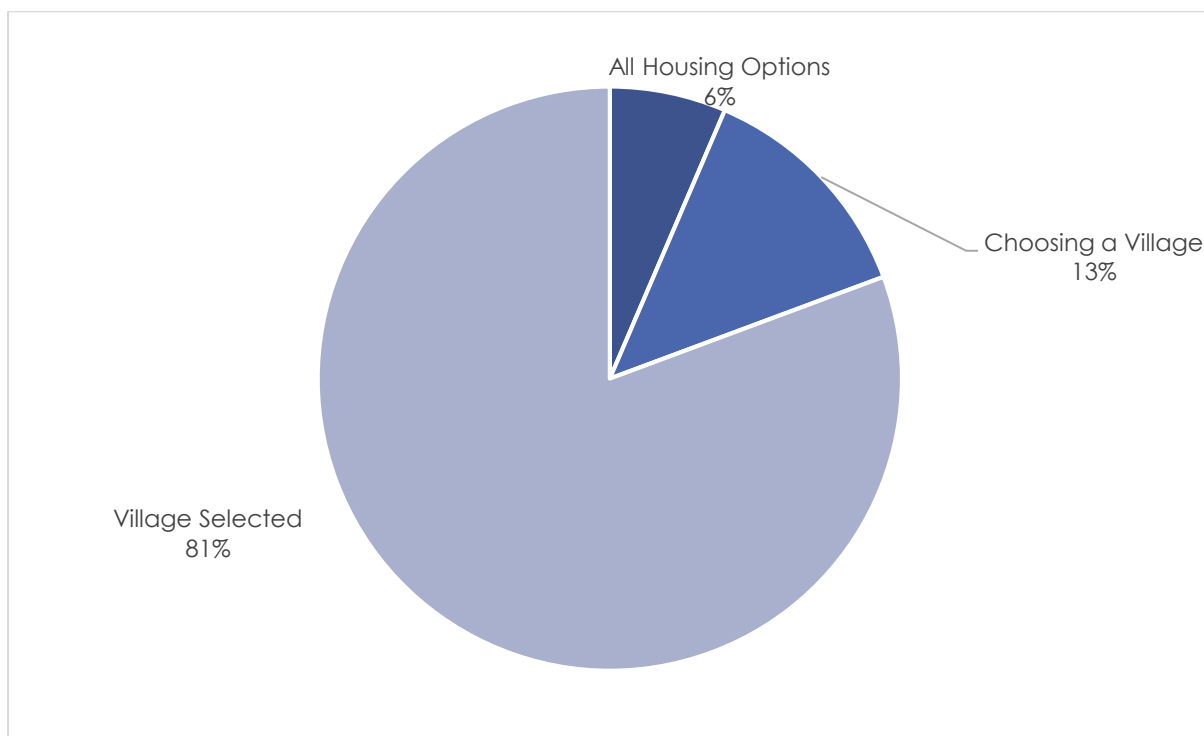


Figure 5.3 Seminar Attendees Consideration of Housing Options (CFFC Seminar Survey n=51)



The 127 lawyers participating in the lawyer's survey commented on the proportions of clients coming to them who were respectively still looking at different retirement housing options, simply looking at different retirement villages, or had already selected a retirement village (Figure 5.4). Collectively they reported on 1,445 intending retirement village clients.

Figure 5.4 Recent Residents' Lawyers Providing RV-Related Independent Advice (Lawyers Survey n=113)



As Figure 5.4 shows, those lawyers reported that the vast majority of clients had already selected a village. Only a very small proportion (6 percent) were considering retirement villages as part of a wider range of retirement living options. Around 13 percent of clients were committed to retirement village living but had yet to select a specific village. Lawyers frequently observed that because clients were often committed to a retirement village there was limited receptivity to thinking about other options. This is discussed in more detail in Section 6.

A number of intending residents, both those participating in the focus groups and those involved in the surveys, noted that they had done a considerable amount of market research prior to going to their lawyer. One participant in the new residents survey was very explicit in this regard:

“I had done all my research previously, so when I approached by lawyer I simply instructed her what I wanted done.”

In addition, this study and other studies, both with retirement village residents and other older people,⁴ confirm that older people often seek information from friends and relatives. Indeed, family members are involved in meetings with legal advisors and frequently assist intending residents to collect and review documents. Several participants spoke about the solicitor taking care to explain details to family members. The role of family members in the process of seeking and receiving legal advice is particularly pronounced, as these comments made in the focus groups show:

“My son went through every aspect, the application, the big thick thing you have to use.”

“My children dealt with it all.”

“Three meetings with the lawyer, my daughter arranged the whole thing.”

“My solicitor made sure that my sons know.”

With respect to decisions around moving to a particular village, intending residents referred to retirement village managers and sales people as key sources of information. Village residents play an important role in providing information about everyday life in the village. Very few participants identified other sources of information and advice, although in that context, Age Concern, information seminars run by churches and U3A, and the CFFC seminars were mentioned.

Some intending residents and new village residents saw themselves as well informed and confident in their decisions. They relied on their lawyers to act as a ‘second pair of eyes’ on their own understanding of the ORA and the Disclosure Statement. For instance,

⁴ See B. James, 2016, The meaning and experience of downsizing: older people’s experience. *Find the Best Fit Research Programme*, www.goodhomes.co.nz; B. James and K. Saville-Smith, 2011, *Retirement Villages Act 2003 Monitoring Project Residents’ Perspectives*. Report prepared for the Retirement Commission; K. Saville-Smith and B. James, 2015, *Retirement Villages: Advice, Information and Education*, Report Prepared for the Commission for Financial Capability.

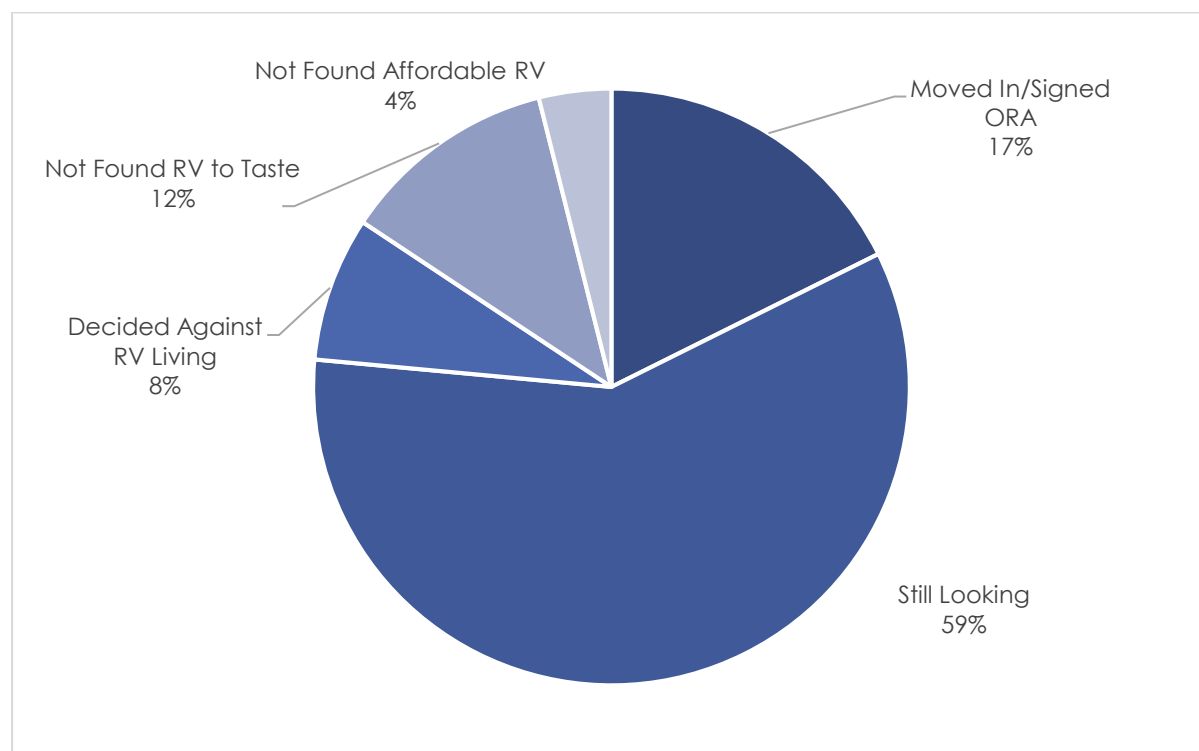
“The material from the village was so voluminous. Everything was well explained and I didn’t have a lot of questions. Ahead of the meeting the lawyer provided a paper briefing... In my previous career, I dealt with legal documents all the time.”

“We were interested in the nitty gritty. What our rights were, extra costs. We sought a lawyer who’d have a good understanding of the Act, of the rights and responsibilities of residents and the company.”

Another group saw themselves as having ‘no choice’ but to move into a retirement village, seeing it as a form of sheltered living. That group, particularly those who had relied heavily on their children to organise the move, relied on their lawyer to ensure that their interests were protected but frequently commented that they did not see the decision itself as likely to be changed in the light of legal advice.

Those patterns suggest three important conclusions. First, that good decisions around older people’s retirement living are reliant on people being informed about the multitude of options they have well prior to making decisions. It is notable that the intending residents participating in the CFFC seminars have shown a variety of housing outcomes (Figure 5.5). About 18 percent reported having moved into a retirement village or signed an ORA. Over half were still looking, while almost a quarter reported that they could not find a suitable retirement village or had decided against retirement village living.

Figure 5.5 CFFC Seminar Attendees Housing Outcomes (CFFC Seminar Attendees Survey n=51)



The second conclusion is that some retirement village residents can be vulnerable to accepting conditions in retirement villages without appreciating the implications of those conditions. The focus groups saw a theme emerge in discussion among participants in which they differentiated between:

- understanding the ORA and the Disclosure Statement as their legal advisor worked through it with them, and
- appreciating the implications of the ORA and retirement living generally.

In general, participants reported that they understood the information and contractual documents they received.

Almost all recalled that their ORA was covered by the legal advisor. There was also widespread understanding of the licence-to-occupy tenure, although a couple of people were not fully aware of its meaning and implications, and were under the impression they owned their unit. There was also widespread familiarity with the deferred management fee and how it works, although it appeared a few struggled with the model. Similarly, most recalled their solicitor covering matters relating to on-going service fees and were comfortable in their understanding of that. The cooling-off period was generally understood, and most participants could recall their solicitor going over the provision. While some did not recognise the term, they did know there was a set period in which they could have changed their mind.

Comments indicated that focus group participants felt they understood important matters:

“[Solicitor] compared this village with other villages. She said the fees were okay compared to other villages.”

“[Solicitor] pointed out the amount of money we would lose and the number of years before you get up to the full percent.”

“My solicitor explained so that you understood clearly how it would affect your estate, and my children would understand that. If they provided money to help get you into the village, they would not get it all back!”

“[Solicitor] went over the fees, but he did say you really haven’t got control of that, they could be increased. But he explained that there’s a lot of maintenance and that’s why the fees go up.”

“We were told what the weekly fee meant – you will have to readjust to paying weekly – that the fee covered all these sorts of things.”

“[Regarding the deferred management fee] it’s easy to think you are being robbed, but not when you look at the overall picture and to be fair.”

Despite a high level of comfort with their understanding, many participants also reported not recalling receiving information about some matters, including:

- Disclosure Statement
- Code of Practice
- Code of Residents’ Rights
- Statutory Supervisor
- Disputes resolution
- Insurances
- Access to in-home support if needed.

Participants reported some material as burdensome or confusing. In particular, they pointed to the large volume of documents, apparent repetition among documents, and lack of a summary or check list of key points. Comments included:

“Sometimes the way things are conveyed, relating to different clauses and sub-clauses was confusing.”

“There are some parts where you read it now, talking about loss, it’s put in such a way, it’s hard to know ‘is it this, or this.’ Very confusing as to the intention.”

“I knew nothing. The sales lady helped more than my lawyer did by far. He needed to be more explicit, in terms I can understand.”

The focus group discussions reiterate the importance of communicating in ways that help those with impairments to understand and process the information. A small number of participants explained that they have cognitive, hearing, mobility or sight impairments. There needs to be information in appropriate formats, careful explanation of terms, a suitable venue and the opportunity for a support person to be involved. Notably, a few participants reported that their legal advisor visited them in their home, and they found this facilitated their comfort and understanding.

There were examples of advice that really struck home for the participants. Often that advice clarified a detail in the ORA. One example was the respective responsibilities of the operator and the resident for repairs. Another example was the explanation of the financial impacts of on-going service fees. Several noted that their solicitors had asked whether they had considered their continuing ability to afford the fees. As two participants observed:

“You don’t know how long you’re going to live. Our solicitor suggested a nest egg. He also raised if one partner dies, can you afford the fees?”

“Think about when your partner dies – what’s it like on your own. What happens if you or your partner goes into care?”

Other examples of advice that made participants really grasp the implications of signing up, concerned the wider experience of retirement village living. Some participants mentioned that their solicitor recounted feedback received from other village residents, which helped to assess their choice. One person reported that the solicitor discussed with them the implications of moving to an area where they knew no-one:

“Looking back on it, my solicitor said, how are you going to get on, not knowing people?”

Regardless of the extent to which participants felt they had understood the information and materials they received, several commented that since moving to village there are some things they should have asked their solicitor, but did not know to ask about at the time. They conceded that those matters may have been covered by the solicitor, and understood by them at the time, but the implications were not necessarily appreciated. The topics that focus group participants identified that tended to fall in this category were:

- The implications of going into care.
- The process and implications of the village or its operator going into liquidation.
- How they would manage if their house was sold prior to being able to move to the village.
- Whether or not there would be future development and how it would affect the village size and character.
- The extent and rapidity with which planned facilities and amenities would be delivered and the implications on fees if they were not.

- The implications for fees on the development of additional facilities.

The third conclusion is that there is a group of intending residents who are very reliant on their lawyers. They, typically, express considerable confidence that their lawyers will ‘protect’ them and will advise them of an undefined condition, event or circumstance that the intending resident might feel uncomfortable with or might be to their disadvantage. That group did not have, or could not clearly articulate specific information and advice needs. Essentially, their expectations were that their solicitor would tell them what they needed to know, and indeed it was the solicitor’s job to do so. Typical comments were:

“My lawyer gave me confidence he could handle all those issues, it went smoothly for me.”

“I hadn’t met her before, I just had confidence. I thought they’re lawyers, they know what they’re talking about.”

“A lot of signing. He told me what it was about. No good going on and on to laypeople who don’t understand law.”

“We just relied on him reading the ORA and giving us the right advice.”

“I never read it – too daunting. My solicitor did all the reading, he approved it.”

“Gave the contract to our solicitor – he said everything’s in there and you can afford to go into the village.”

Some explained that their move to a village had happened rapidly, due to poor health or bereavement. These intending residents relied on a family member, friend or spouse to undertake all necessary information gathering and interact with the solicitor. In those situations, they could recall little active engagement with their lawyer. Comments included:

“Left it up to others, did not read it.”

“At that stage I lost my husband and was not in a good space. Had my son’s help.”

There was also an element of resignation and a belief that it was no use raising issues because the contract was standard:

“[The lawyer] didn’t want to push the bad stuff, they knew they couldn’t change it, and we knew we would just have to accept it.”

“Went to our solicitor – he said it’s a standard contract, the basic rules. They can’t deviate.”

5.4 Resident Reported Scope and Coverage of Advice Provided by Lawyers

The legal advice and services provided by lawyers in the course of shifting to a retirement village falls into two categories. One set of services relates to what might be broadly referred to as succession and estate planning. The other relates to the advice given in the course of the statutory provision of legal advice for the signing of an ORA. These two can be inextricably entwined. Wills, powers of attorney, and sale of previous home were all commonly identified as issues discussed at the time of getting advice on retirement villages and formally dealing with the legal requirements around signing an ORA.

Table 5.1 sets out the advice and information reported by residents as delivered by their lawyers specifically in relation to retirement villages.

Table 5.1 Intending Resident Reported Advice and Information Covered by Lawyer (New Residents Survey n=88)

Advice and Information Provided by Lawyer	Residents	% Residents
ORA	75	85
Monthly fees and how they might change	70	80
Ability to terminate residency	60	68
Disclosure Statement	57	65
Application form	55	63
Contents insurance	48	55
Code of Practice	47	53
Village Rules	46	52
Code of Resident Rights	46	53
Unit insurance cover	45	51
Repairs and maintenance processes and costs	43	49
Ability to have overnight guests	41	47
Management agreements	38	43
Disputes and dispute resolution processes	35	40
Ability to share unit with a temporary or permanent resident	34	39
Affordability under current and possible financial changes	29	33
Services attracting additional fees	28	32
Deed of Supervision	28	32
Financial implications of moving from independent villa to serviced apartment or to rest home or hospital care	27	31
Implications of continued residence if one of a couple requires rest home or hospital care	25	28
Financial position of village or operator	22	25
Audited financial statements of the RV operator	22	25
Rights or restrictions on the use of amenities	20	23
Financial implications of moving to a different village	13	15
Whether DHB home care can be accessed or services must be purchased from the village operator	9	10
Age-related restrictions and marriage to person outside eligible age	9	10
Implications of marital separation	5	6

This data suggest some intending residents find it difficult to recall the nature and coverage of advice. It is unlikely that 15 percent of intending residents did not get advice around their ORA when they were actually attended by a lawyer for the specific purpose of signing an ORA. That conclusion is consistent with the focus group data in which some residents did find it difficult to recall the scope of the information they covered with their lawyer. Despite the problem of memory that some residents show, Table 5.1 does indicate that some information is more likely to be discussed than others. Those patterns are very similar to those reported by lawyers themselves (see Table 6.3).

The majority of new residents recalled being provided with advice around:

- ORA
- Monthly fees and how they might change
- Ability to terminate residency
- Disclosure Statement
- Application form
- Contents insurance

- Village Rules
- Unit insurance cover
- Code of Practice
- Code of Resident Rights.

A substantial minority of new residents recalled being provided with advice around:

- Repairs and maintenance processes and costs
- Ability to have overnight guests
- Management agreements.

Smaller proportions recalled advice around:

- Ability to share their unit with a temporary or permanent resident
- Disputes and dispute resolution processes
- Affordability under current and possible financial changes
- Financial implications of moving from an independent villa to a serviced apartment or to rest home or hospital care
- Services attracting additional fees
- Implications of continued residence if one of a couple requires rest home or hospital care
- Deed of Supervision
- Financial position of village or operator
- Audited financial statements of the retirement village operator
- Rights or restrictions on the use of amenities.

The areas in which new residents are least likely to recall their lawyer giving them advice or information are:

- Financial implications of moving to a different village
- Whether DHB home care can be accessed or services must be purchased from the village operator
- Age-related restrictions and marriage to person outside eligible age
- Implications of marital separation.

While the latter two dot points might seem unlikely, in this and previous research we have come across relevant marital separation events as well as situations in which difficulties have arisen around age-related restrictions. An example found in previous research concerned an elderly resident married to a woman under the age of village eligibility. The village initially suggested that his new wife would be unable to stay with him in his villa. That view was over-turned by the corporate operator on condition that the wife had no right to stay in the villa if her husband died or exited the villa in residential care.

In the context of this research, the experience of Mr and Mrs Z is salutary. Mr and Mrs Z selected a newly developed village several months ago. They had shopped around for over a year and eventually chose the village because of its newness, location and range of facilities, both provided and planned. They were delighted with their choice. However, their solicitor identified a snag when they visited him to discuss the ORA. One of the couple was under the village entry age, which meant that the village operator would not allow their name to be included in the ORA. Once the under-age partner turned 70 years of age, the village would enter into a new contract with both partners, and this would entail a sale and purchase, with the appropriate proportion of the deferred management fee applied.

There was another problem: the village rules allowed visitors to stay for three months only with a resident. This would mean that the under-age partner could not live in the village on a continuing basis. The couple were very concerned about the insecurity for the under-age partner, in particular that, in the unlikely event of the older partner dying, the under-age partner would have no home and no protection of their financial interest through the ORA. The solicitor ‘went into bat’ for the couple, entering into negotiation with the village on both matters. He achieved a dispensation from the village operator for the under-age partner to live in the village as a resident, not as a guest. After further discussions, the solicitor also got an agreement that once the younger partner reached 70 years of age, they would be added to the ORA with no requirement for a new purchase of the ORA.

It is notable that some residents had received advice and assistance from their lawyer right through the cooling-off period. Two recent residents commented:

“He phoned within a few days of when you had to say yay or nay and said, have you made up your mind. We should have a talk about it. He focused on the difference between being here [in the village] and owning your own home, going from a 4 bedroom house to a 2 bedroom apartment.”

“I think she [lawyer] just wanted to make sure. She gave me a list of things she wanted me to concentrate on. She called and said, it’s time to talk about this. I went in and we went through the list...she made sure I was happy with the [unit] and if not she said to wait until another one was available.”

5.5 What Proactive Intending Residents Ask of their Lawyer

Some participants had clear expectations that a visit to a solicitor would enable them to check out a variety of concerns and questions. They were likely to have discussed the ORA and other documents with their family or friends, and to have made a list of questions in preparation for meeting with the solicitor. These comments show that preparation, and also that discussions with solicitors occurred for some at an early stage of their decisions-making:

“We wanted to know the pros and cons before we made the decision to go to a village. Had a good think about it before we made our decision.”

“Wrote questions down, if they weren’t covered by lawyer we asked. We also looked at previous years AGMs, minutes and financial statements.”

“We had a checklist – things you should make sure you understand. Took this to the lawyer – wrote on the checklist what I wanted to know.”

“I spent a long time looking at all the documents before going to the lawyer, wasn’t in a rush. I had plenty of people telling me to read through everything.”

Some of the proactive intending residents shared some of the queries they raised with their lawyers. Those are summarised in Infobox 1 and range over village rules, village costs, the transition to aged care and on-going residence in the village.

Infobox 1: Questions Pursued by Proactive Intending Residents

What are the financial impacts if one partner has to go into aged residential care?
What are the financial impacts if I go into aged residential care?
What happens when one partner dies?
Are pets welcome in the village?
Is power included in the weekly fee or not?
Insurance matters.
Family trust matters.
How does the power of attorney operate?
Inheritance implications of the ORA.
What are the future facilities to be provided in the village?
What happens if I run out of money? Will I be thrown out on the streets?
What would happen in an earthquake?
What would happen if owner on-sold the village?
What if the village becomes insolvent?
What happens if the village goes bankrupt?

Some intending residents were very much focused on details of the contract. There was a view among them that it was not relevant or appropriate to use their solicitor at an initial, exploratory stage of considering retirement village living, as this comment shows:

“There are other people we can talk to generally about what to do – there’s a lot of people to talk to about that. Don’t go to a lawyer to talk about that at the prices they charge!”

Others, however, either at their own initiation or at the initiative of their lawyer had discussions that went beyond contractual matters. Some of those discussions dealt with practical matters associated with moving such

as getting utilities disconnected and connected and organising the moving of their furniture. Other discussions mentioned by focus group participants included issues around intentions to move in the future, including their taste for living with or moving near their children.

The queries that residents reported that they raised with their lawyers covered current village conditions. But these proactive intending residents also explored various future scenarios. Sometimes those scenarios were about the implications of a change in personal financial situations. In other instances, intending residents raised scenarios about the village. A few participants said that the only question they asked their solicitor was about their future security if there was a disaster, financial instability of the village, or the village changed ownership. As one resident stated:

“[I asked] what about when things go wrong – how will you manage – what can you do? What’s the escape route?”

5.6 Other Sources of Advice

This and previous research have highlighted that intending residents often seek information from a multiplicity of sources. As Table 5.2 shows, those sources are primarily informal or retirement village operators. There is low recourse to other professionals such as financial advisers or accountants. There is also limited use of public or voluntary agencies.

It should be noted, however, that the pattern found among older people attending the CFFC seminars show that many older people thinking about their housing futures display a much stronger tendency to harvest information from different sources. Some chose to use the seminar attendees survey as an opportunity to express positive assessments of the value of the CFFC seminars.

Table 5.2 Other Advice Sources (New Residents Survey n=88)

Information Source	Residents	% Residents
Family	60	68
Retirement village operators	51	58
Friends	41	47
Retirement village residents	35	40
Financial adviser or accountant	9	10
Nurse or doctor	6	7
Retirement Commission	4	5
Village sales person or real estate agent	3	3
MBIE/Dept of Building or Housing	2	2
Trustee of Family Trust	1	1
Power of Attorney	1	1
Village Statutory Supervisor	1	1
Grey Power	1	1

It must be said in that regard, that some attendees subsequently deciding that retirement village living was not for them is indicative that the seminar series did prompt people to reflect profoundly on their choices. Such reflection is something which benefits older people. It is also likely to reduce the risk of the retirement village sector and specific villages having to manage conflicts and disputes that arise out of poor fit between the needs and temperaments of individuals and the exigencies and realities of village life.

5.7 Satisfaction with Legal Advice

Both in the focus groups and in the surveys, participants expressed a high degree of satisfaction with their lawyers. Among the CFFC seminar participants who had moved to a village or signed an ORA, all stayed with their original lawyer throughout the process. Among the new residents survey, 86 of 88 stayed with their original lawyer. In one case, their lawyer directed them to another lawyer in the same firm who was being supervised by their original lawyer and in one case the lawyer died.

Among the participants in the new residents survey, a minority (13 percent) expressed ambivalence about whether legal advice gave them the information they needed to know on necessary matters. Only two participants were actively dissatisfied with their lawyer. For one, that dissatisfaction resided in a misunderstanding about her husband's estate which she believed had been resolved some years before but led to her finding that she had less money through the sale of the dwelling she occupied than she thought. For another there was tension with the individual who held a power of attorney.

In the focus groups, a few participants criticised the solicitor they dealt with because the lawyer seemed unfamiliar with the range of matters and documentation associated with moving to a village:

"[Solicitor] passed me off onto a young one who didn't know anything. He was reading it, trying to tell me what was involved. I went to Public Trust to get power of attorney when I found out I needed that. My lawyer, I'd dealt with her for years. I found it insulting to be put off onto someone who didn't know anything."

There was a tendency for focus group participants to prefer dealing with older legal advisors, including legal executives. That sense of familiarity arising from a longstanding relationship with a particular lawyer was important to many. Older lawyers tended to be regarded as more

‘in tune’ with older people’s wants and needs. Nevertheless, many intending residents recognised that the use of a more junior lawyer was cost effective. They expressed confidence that young lawyers were being supervised.

Overall, the performance of lawyers was seen as positive by most residents. Some participants considered that their solicitor went out of the way to get a good outcome for them. There were examples of lawyers pursuing prolonged discussions with the village manager. A couple of participants recounted difficulties they had in selling their property, and the efforts of their lawyers to satisfactorily manage their situation:

“He was like a fox terrier ... finally he got the village to say yes, got it in writing.”

“She rang the owner while we were with her. Very thorough. The owner said, ‘no other lawyer has asked me about these things.’”

“My lawyer was keeping in touch with [village] the whole time, kept them informed of when I was coming.”

5.8 Confidence in their Decision

New residents were typically confident in the ‘rightness’ of their decision and confident in the legal advice they received. Even those who acknowledged that their recall of details was not comprehensive, felt comfortable with their decisions. This was in part because of their confidence and trust in their lawyers and the usually longstanding relationship they had with them. They were confident that their lawyer would assist them if any issues arose after taking up residence in their village. Many characterised the ORA and the Disclosure Statement as long and impenetrable, but felt that they could find information as needed or as issues arose. This finding is consistent with a previous monitoring report on residents’ legal protections,⁵ and research into information and advice previously commissioned by the CFFC.⁶

5.9 Ambivalences and Anxieties

Two aspects around decision-making are, however, worth highlighting. Both of these emerged in the focus groups. The first is the difference between comprehending the information and advice given to them and appreciating the implications of that advice. The second, is the muted but nevertheless distinct anxiety expressed around long-term affordability.

Comprehension vs Appreciation

Focus group participants commented that while they understood the advice given to them by their lawyers, they did not always appreciate that they themselves might experience conditions that made that advice relevant to them. The areas which seemed to be most affected by this separation between comprehension and appreciation were:

- conflicts and disputes
- conditions around access to residential care or provision of in-home services
- potential to be assessed in relation to continued independent living

⁵ B. James and K. Saville-Smith, 2011, *Retirement Villages Act 2003 Monitoring Project Residents’ Perspectives*. Report prepared for the Retirement Commission.

⁶ K. Saville-Smith and B. James, 2015, *Retirement Villages: Advice, Information and Education*, Report Prepared for the Commission for Financial Capability.

- exiting a retirement village
- budgetary impacts of service and monthly charges
- uncertainties around staged development and possibilities of certain stages not being provided.

By way of contrast, compared to the previous monitoring report on residents' legal protections, new residents showed a greater understanding of their tenure. They appreciated that their purchase of a LTO was primarily the purchase of an amenity and for use value. They did not see LTOs as either an asset or an investment equivalent to owner occupation.

Anxieties around Long-term Affordability

New residents in the focus groups and the new residents survey as well as the seminar attendees were almost overwhelmingly clear that LTOs were not an asset or an investment equivalent to owner occupation. They were also clear before taking up residence that exit was unlikely to be affordable. The focus group participants did express a sense of anxiety about the on-going affordability of their residence. Typically, they understood how and why monthly and service fees could change. Many, however, mentioned that they did not fully appreciate the impacts of those changes on their budgets and their capacity to pay. This is not a matter of requiring financial advice in the investment sense, but having a better understanding before making a commitment to the impact of different scenarios on their budgets. The following comments by seminar attendees are indicative of the anxieties around budgets:

"Our concern is that annual rates may increase, though I am on a fixed income."

"The seminar's example spreadsheets forecasting future incomes and expenditure were a great help in our decision."

5.10 Making Good Decisions

As discussed earlier, it was common for participants not to actively seek information and advice from their solicitor, but to expect that essential information would be provided. Focus group participants were asked what information they believed was important for intending residents to receive if they were to make good decisions. Naturally their responses covered the usual matters in the occupation right, such as type of tenure, the deferred management fee, lack of capital gain, on-going charges, termination of the occupation right, and the services and facilities provided.

Among the 'need to knows', however, was a sense of the suitability of the village for an individual. Visiting and spending time at villages were considered to be critical to making good choices. The advice residents give is that intending residents need to be satisfied that:

"The village has a feeling of safety."

"[They can] see where they fit in. If you don't fit in, you wouldn't like it."

"[They have] compared apples with apples, what you get for your money, that's what you've got to find out."

Many participants talked about the need to compare villages, in particular with regard to:

- size of unit
- the density of village built environment

- appearance of the village, including gardens and common areas
- provision of parking facilities, not only for residents, but for visitors
- accessibility of dwellings
- the location of the village and proximity to shops and public transport.

6. PROVISION OF LEGAL ADVICE

This section presents data arising from the Lawyers Survey and a set of in-depth interviews with selected lawyers. Of the 127 lawyers responding to the Lawyers Survey, 113 reported one or more people seeking advice about a retirement village either for themselves or on behalf of an older family member. Between them, those lawyers served 1,445 clients looking at retirement village living over the two years prior to surveying. Surveying crossed the 2015/2016 year in which Jones Lang LaSalle⁷ estimate there were around 2,419 new retirement village residents.

Key Insights

- Almost two thirds of lawyers advising older people on ORAs in the last two years reported dealing with at least 10 intending residents over that period.
- Lawyers emphasise the importance of ensuring that family, as well as the intending resident, understand the nature of the ORA.
- Most intending residents seek legal advice around retirement villages when they have chosen a village and at the point of signing an ORA.
- Lawyers typically provide advice relating to property and succession planning, as well as advice associated with signing an ORA.
- There are three broad approaches to providing legal advice: administrative, pastoral and proactive negotiation of ORAs with retirement villages.
- Lawyers were critical of lengthy, confusing documents, particularly Disclosure Statements.
- Most lawyers consider they have sufficient information but a substantial minority consider that their ability to advise clients about retirement villages could be enhanced with better information and understanding of developments within the retirement villages sector.

6.1 Older People Advised by Participants in the Lawyers Survey

The average number of clients seeking advice on retirement villages was 13 clients per lawyer over two years. The range was between one client and fifty clients. Some lawyers had considerable through-put of intending retirement village residents (Figure 6.1). The

⁷ James Lang LaSalle 2017. *New Zealand Retirement Village Database (NZRVD) November 2016*. Auckland, JLL.

importance of long connections between intending residents and their lawyers is evident in the way in which lawyers advise clients seeking retirement villages in a multiplicity of regions (Figure 6.2).

Figure 6.1 Providing RV-Related Advice and Lawyers' Client Numbers (Lawyers Survey n=113)

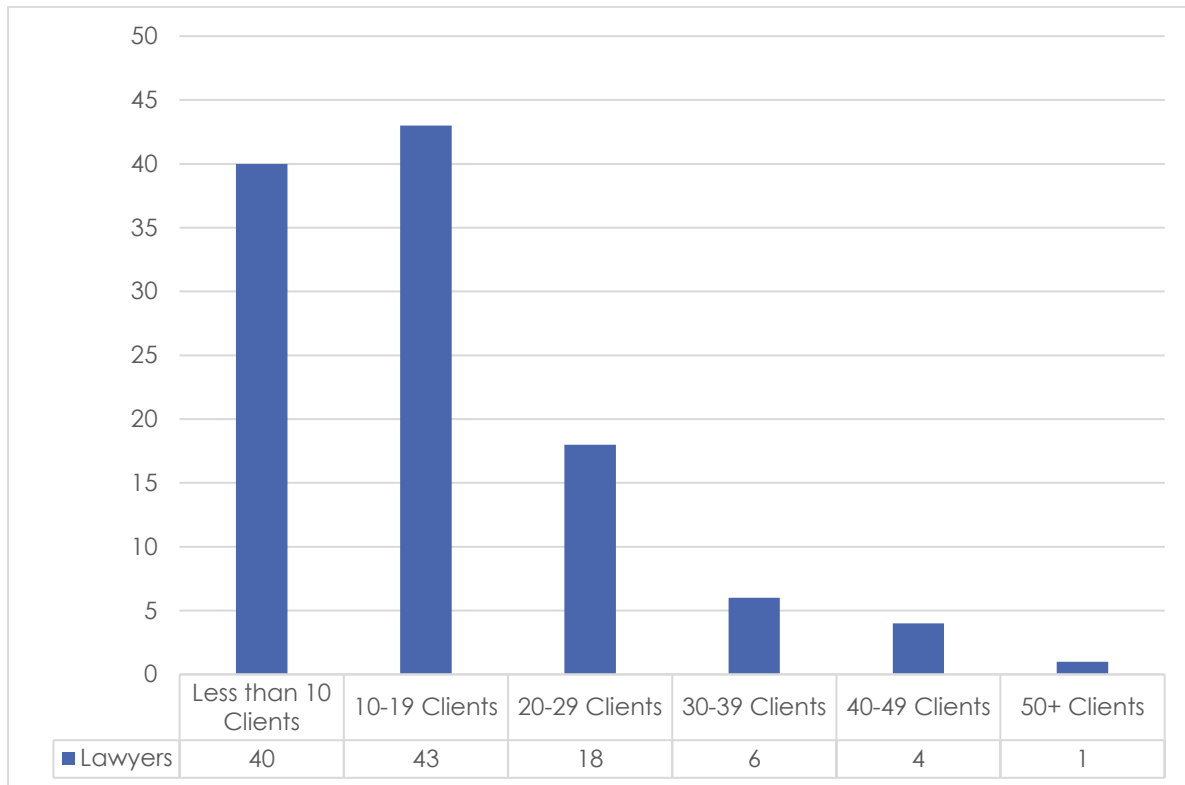


Figure 6.2 Cross-Regional Provision of RV-Related Advice (Lawyers Survey n=113)

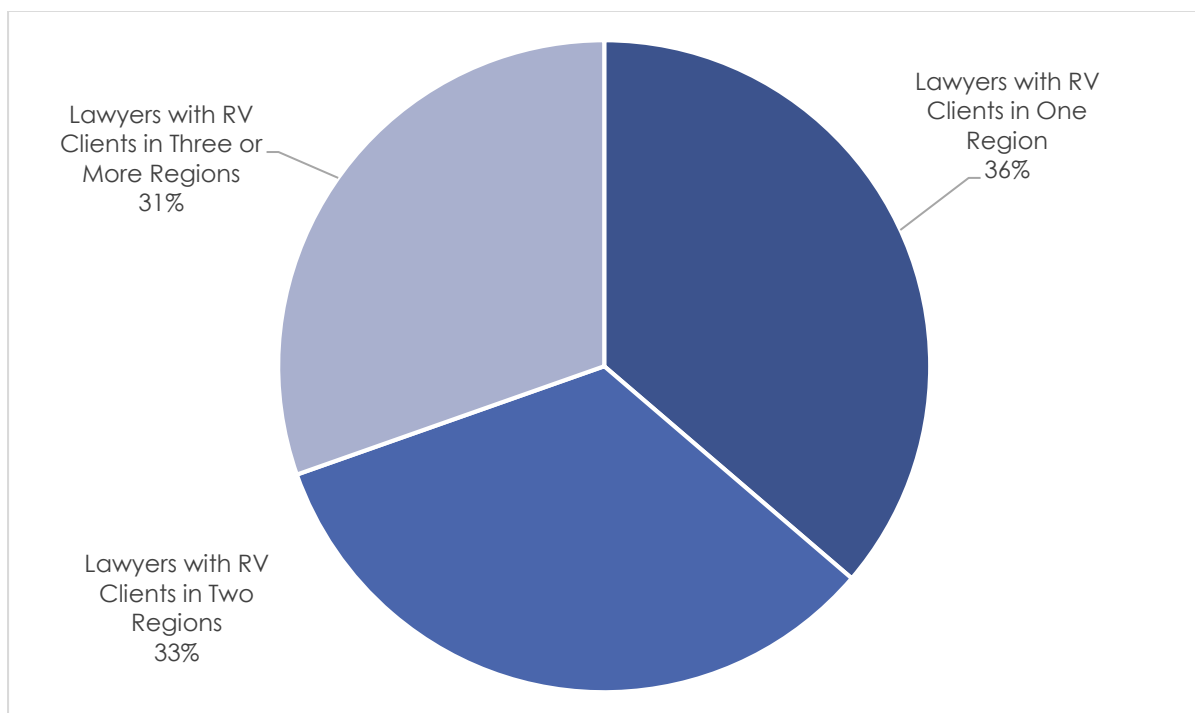


Table 6.1 shows the average number of clients reported by lawyers based in different regions. Analysis of the geographic distribution of clients shows that while some regions have considerably more people seeking advice on retirement villages, the average number of clients reported by lawyers based in different regions does not vary significantly. This is consistent with the tendency for intending residents to seek legal advice from their existing lawyers rather than selecting from a smaller pool of lawyers specialising in retirement villages. It also suggests that the extent of retirement village experience arising from through-put is not strongly differentiated regionally.

Table 6.1 Lawyers, Regional Base and Average Number of RV Clients (Lawyers Survey n=113)

Regional Base	Number of Lawyers	Average RV Clients/Lawyer
Northland	4	16
Auckland	32	11
Waikato	5	11
Bay of Plenty	9	17
Gisborne	2	28
Hawkes Bay	5	19
Taranaki	2	21
Manawatu-Wanganui	3	15
Wellington	9	10
Marlborough	2	6
Nelson	3	11
Tasman	1	40
Canterbury	16	14
Otago	4	8
Southland	3	23
Total (13 missing data)	100	14

6.2 Independence and Legal Advice

The legal advice provided to intending or potential residents under the Act is expected to be independent. There are two ways in which the independence of that advice might be considered problematic. The first is where a prospective resident has been directed by the operator or employee of a village to a particular lawyer. The other is where a lawyer may have what could be considered a conflict of interest. The latter may arise in a number of different ways including through:

- holding of shares in the retirement village industry in general or having an interest in a particular village, or
- providing advice to both intending residents and others who might have interests or expectations impacted on by the decisions of an intending resident.

Lawyers were asked whether they had both advised prospective residents and advised a village operator or manager over retirement village related matters at any point in the two years prior to surveying. Around 12 percent reported doing so. In interviews, and in comments by surveyed lawyers, it was noted that issues of acting for both an operator and being asked to act for an intended resident were rare and were handled within the usual and established framework of policy and practice.

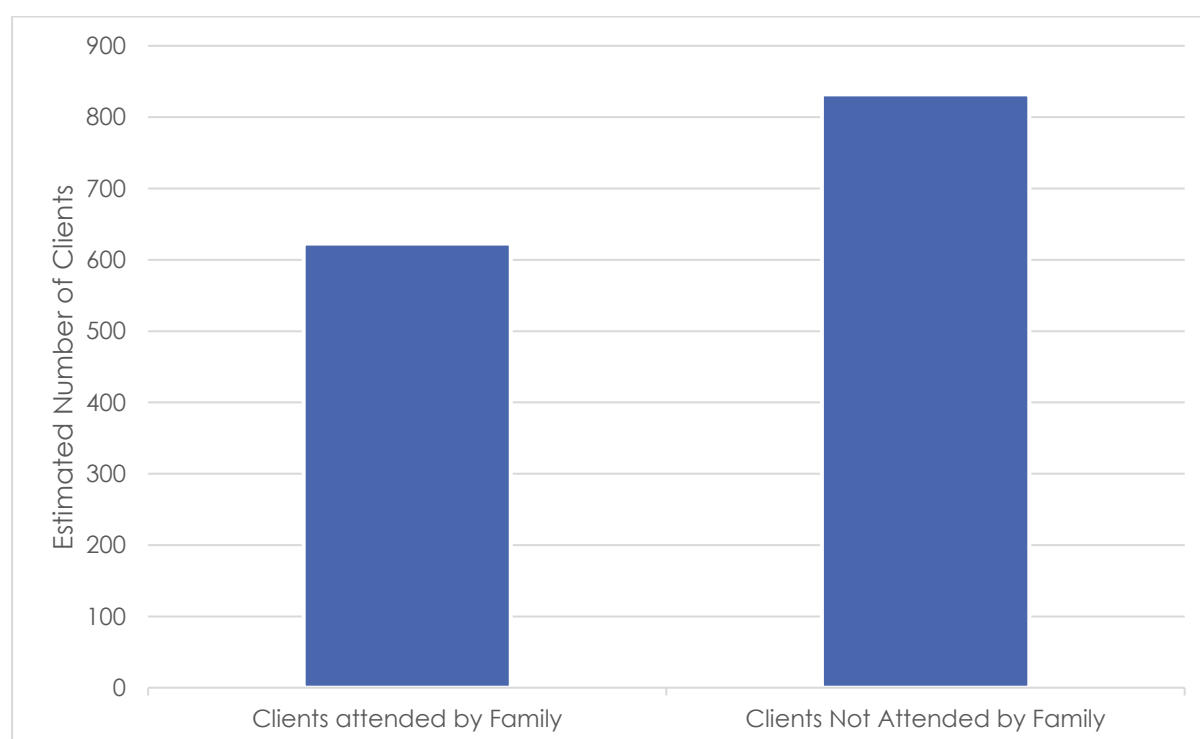
“We don’t act for villages in this area. If we did we would go through a conflict of interest process.”

“Some large operators have requested tenders to provide advice to incoming residents.”

That framework for the management of conflict of interest was also referred to when dealing with the potential for conflict between acting for an intending resident and acting for children or other parties who might be affected by the intending resident’s decision. This situation appears to be much more fluid and more nuanced. In terms of fluidity, it is clear from the new residents focus groups that some received advice from what they described as their son’s or daughter’s lawyer. This appears to be a very small minority and in some cases reflects situations in which there has been a long, multi-generational association between a particular legal firm and a family.

Children or other relatives attended meetings between lawyers and their clients but this was by no means universal (Figure 6.3).

Figure 6.3 Family Attendance with Clients (Lawyers Survey n=113)



Both lawyers involved in interviews and in the comments of lawyers participating in the survey, noted the importance of ensuring that family members understood the nature of the contract in which their parent or related older person was entering. Indeed, of the 113 lawyers who provided advice to intending retirement village residents, 63 percent stated that they believed that children were best placed to assist older people to decide whether retirement village living would be suitable. Comments included:

“I also try to involve family members, and in particular beneficiaries of a Family Trust where the latter is permitted by the village operator to be the Licensee...so that all are informed of the ongoing costs to be borne by the Trust and the ramifications upon termination. I also consider it prudent to have beneficiaries...separately and independently advised and to obtain their informed consent in writing.”

“Generally, it’s not a problem [to have son/daughter] ...it’s good when they are proactive, but not if they are interfering and controlling, I would ask them to leave.”

“Adult children can either be a blessing or a huge hindrance – they can help elderly parents understand, but they often ask overly complicated questions and confuse their parents more too.”

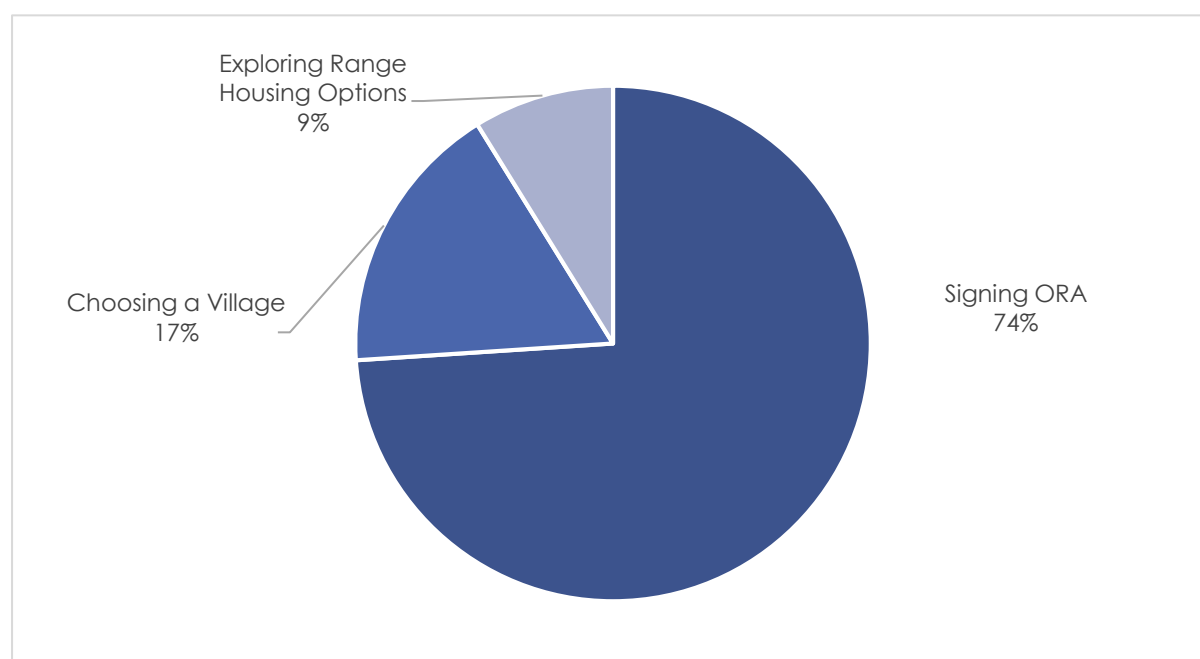
In some cases, their clients specifically told them that they did not want or need their children involved in the process. A number of lawyers commented that they actively took care to ensure that: their client understood the contract; and their client felt that they were making their own decision. In some cases, where lawyers were concerned about either of those issues, they explicitly asked to speak with the client alone. Some lawyers reported delaying signing before organising a separate appointment. One lawyer reported:

“I am quite blunt, I want to see the individual on their own.”

6.3 Point of Engagement

The vast majority of intending residents contact their lawyer when they have already made a decision. Data from the lawyers survey suggests that the majority of older people seeking advice around retirement villages did so at the point of signing an ORA (Figure 6.4).

Figure 6.4 Point at which Clients Engage with Lawyers (Lawyers Survey n=113)



6.4 Range of Advice and Information

Consistent with data collected from intending or new residents, lawyers report that they tend to provide two sets of advice and services when clients are seeking to move to a retirement village. One set relates to property and succession planning. The other set falls into the statutorily required advice associated with signing an ORA. In the context of the first set of services, lawyers reported that they typically provided advice and services related to wills, powers of attorney and other estate related business (Table 6.2).

Table 6.2 Lawyer Reported Advice and Services to RV Clients in Addition to Statutorily Required Legal Advice (Lawyers Survey n=113)

Advice and Services	Lawyers	% Lawyers
Enduring Power of Attorney	109	96
Wills	107	95
Advice on existing family trust	101	89
Estate matter	96	85
Advanced Directives	63	56
Power of Attorney	48	42
Establishing new family trust	31	27
Any other financial matters	30	27

The retirement village related range of advice provided by lawyers to intended residents showed a degree of consistency across all the research participants. This is evident in Table 6.3. Notwithstanding, the list of specific aspects of advice and information conveyed to intending residents in Table 6.3, gives a relatively narrow view of the way in which lawyers relate to clients during the process of providing independent legal advice. Some lawyers within the survey and in in-depth interviews reflected explicitly on that relationship. Three typologies can be discerned:

- i. Analysing, explaining and advising on the ORA to ensure client understanding and the provision of a robust platform for client decision-making (Type A – the administrators).

“[ORA] is standard. There is not a lot to negotiate...I really emphasise the tenure, the percentage that will be taken out, lack of control over sale, village rules.”

- ii. Type A above plus a pastoral approach which may embrace extended discussion around taste and/or the nature of the village as well as proactive management of the cooling-off period (Type B – the pastoral carers).

“For a lot of people in their 80s, I send them away and then get them to come back...it’s difficult for elderly people, they are focused on the immediate. What if it doesn’t work out right? ...I hadn’t really talked about changes in the service packages/product. Now I do.”

- iii. Type C – the negotiators – is Type B above plus proactive negotiation of the ORA.

“I negotiate staunchly on the ORAs...I negotiated the provision that the capital sum wouldn’t apply if that person wanted to move in the villages of the operator, in that region... It’s not a take it or leave it – everything’s up for negotiation.”

Table 6.3 Lawyer Reported Usual Advice to RV Clients (Lawyers Survey n=113)

Advice and Information Provided by Lawyer	Lawyers	% Lawyers
Occupation Right Agreement	109	96
Ability to terminate residence	103	91
Ongoing liability for weekly/monthly fees between termination of ORA and resale of unit	100	88
Disclosure Statement	99	88
Contents insurance	99	88
Village Rules	97	86
Price, setting and changing weekly/monthly fees	96	85
Timeframe for capital repayment to client or the estate on termination of ORA	94	83
Distribution of capital gain or capital loss on surrender of an ORA	92	81
Process and costs for repairs and maintenance	90	80
Code of Residents' Rights	89	79
Ability to have overnight guests	89	79
Services attracting additional fees	88	78
Code of Practice	86	76
Operators chattels included in the ORA	86	76
Ability to share unit with a temporary or permanent resident	83	73
Financial implications of moving from independent villa to serviced apartment or to rest home or hospital care	80	71
Disputes and resolution processes	78	69
Package of units and care continuum delivered by operator	75	66
Application form	72	64
Dwelling Insurance	72	64
Ability to have pets	69	61
Implications of continued residence if one of a couple requires rest home or hospital care	50	44
Rights or restrictions on the use of RV amenities	49	43
Financial implications of moving to another village owned by the same operator	48	42
Ability of Family Trust to purchase a unit	45	40
Affordability of a village if resident's financial circumstances change	45	40
Housing, service and financial implications of moving to another village owned by another operator	44	39
Whether noise issues might affect them, either restricting their own noisy activities or sensitivity to noise from others	37	33
Whether there are restrictions on hobbies or vehicles	35	31
Whether DHB home care can be accessed or services must be purchased from the village operator	27	24
Availability and choice of personal alarm service	24	21
Financial robustness of a village or its operator	22	19
Staff skills and qualifications	18	16
Operators' audited financial statements	17	15
Deed of Supervision	14	12
Management Agreements	14	12
Implications of marital separation	11	10
Site coverage of a personal alarm over the village complex	11	10
Seeking independent advice from accountant, financial advisor or auditor	10	9
Staffing levels	10	9
Age-related restrictions and marriage to person outside eligible age	9	8

6.5 Time and Cost of Legal Advice

The average, median and mode of time spent on collecting information, analysing material and advising clients is around three hours. As Figure 6.5 shows, a little more than one third of lawyers reported spending in excess of four hours in the preparation and delivery of retirement village legal advice. Some lawyers expressed concern that some retirement villages attempted to shift time and other costs onto lawyers by sending materials such as Disclosure Statements to the lawyer to print and provide to the intending resident.

“I have had a long battle with a village about this – they should deliver directly to the intending resident. People need to be familiar with the Disclosure Statement before they have to work through the ORA with me.”

Almost half (59 percent) of new residents reported their retirement village related legal advice costs between \$1,000 and \$2,500 (Figure 6.6). This is consistent with the time lawyers reported as associated with the provision of retirement village independent legal advice. Lawyers expressed a concern to keep the costs of legal services related to receiving the statutorily required independent legal advice affordable. In the in-depth interviews, it was noted that where intending residents were also getting other services such as enduring powers of attorney or wills, there were opportunities for efficiencies.

“We typically do the whole bundle, conveyancing, will, enduring power of attorney.”

Figure 6.5 Time Expenditure on Preparation and Delivery of RV-Related Advice per Client (Lawyers Survey n=113)

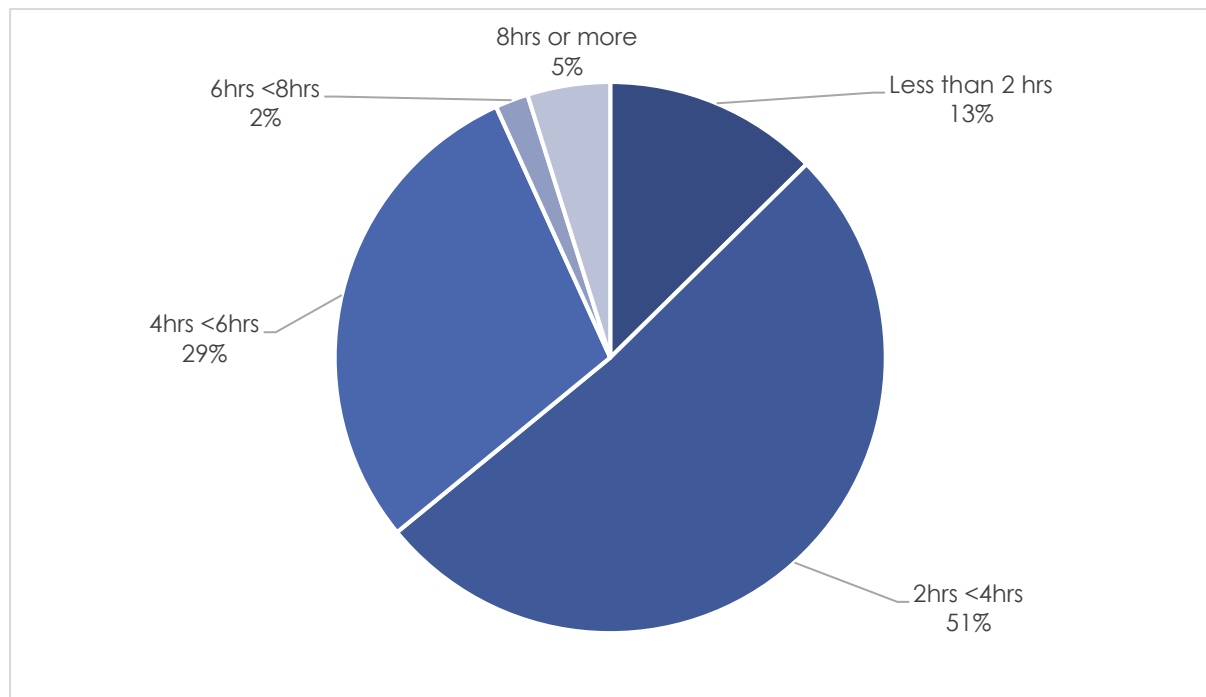
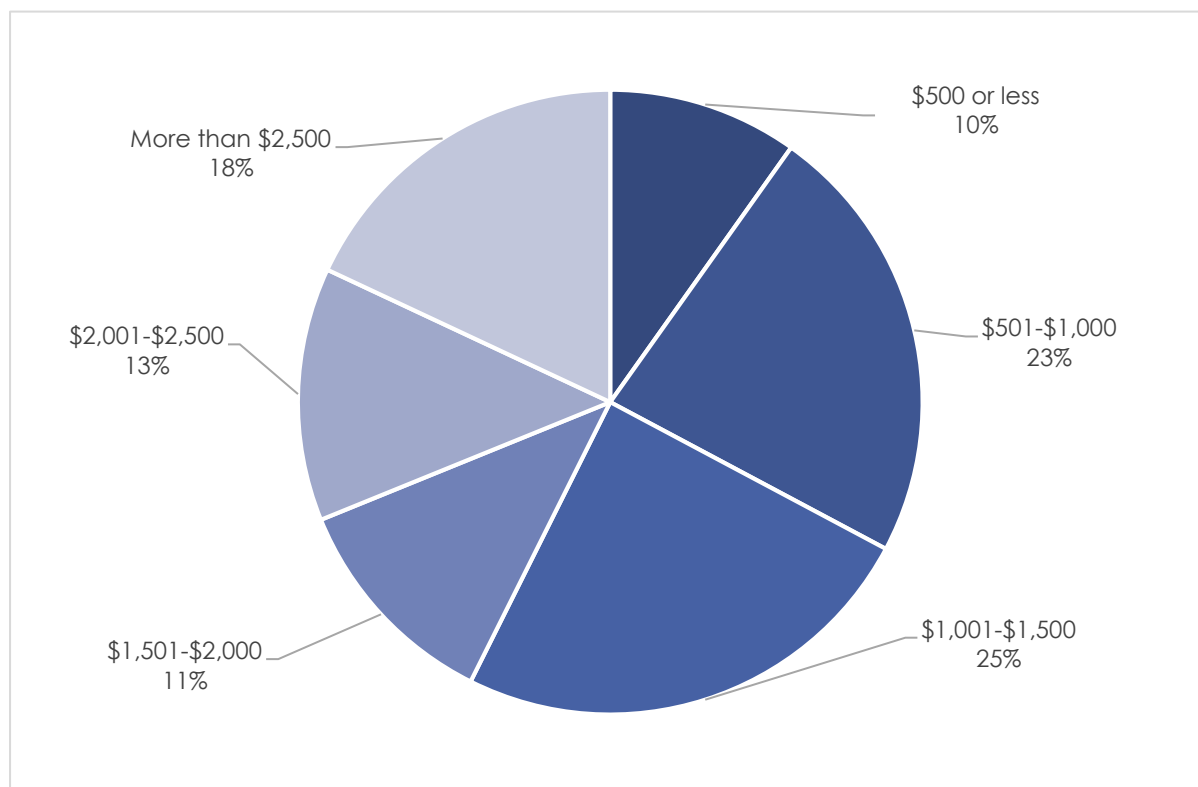


Figure 6.6 Legal Costs for RV-Related Advice Among Intending Residents (New Residents Survey n=88)



6.6 Referrals and Other Sources of Advice

About a fifth of lawyers provided their clients with a checklist to assist their consideration of issues around retirement villages. Both survey participants and interviewees suggested that retirement villages tended to overwhelm older people with paper. Lawyers were particularly critical of the bulky nature of Disclosure Statements. Many suggested that far from encouraging informed reflection among older people, Disclosure Statements were designed to protect retirement villages from accusations of lack of transparency and any related challenges.

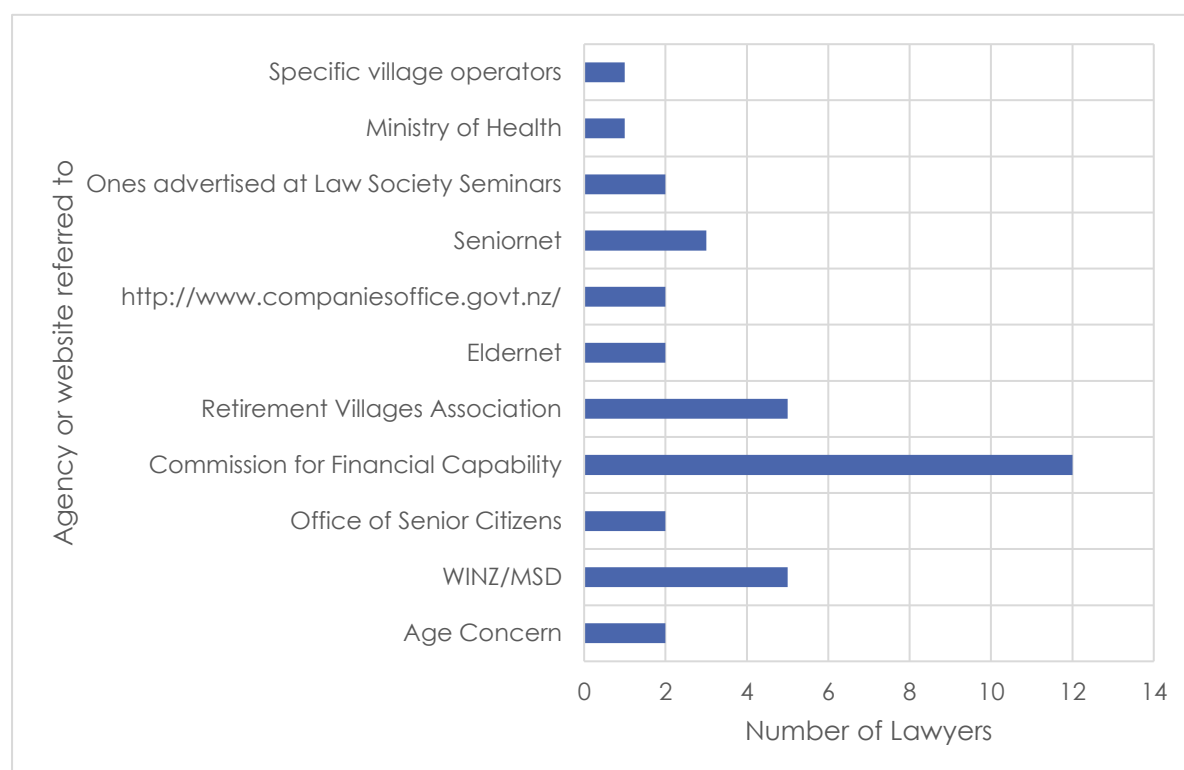
“I am concerned about the disclosure statement. Operators produce a standard, not honed for the individual facility. It’s far too bulky.”

“The disclosure documents are copiously thick and legalistic and do not make it easy for the elderly person to find the information that is most relevant to them...providers...prepare them globally, rather than for the specific village...operators need to give these documents to the clients in time for them to consider properly, not email them to the lawyer to provide with the license to be signed, which is after the decision to be made.”

Many lawyers are concerned that their clients receive comprehensive information and advice about retirement village life. Some 29 percent of lawyers saw themselves as having a role in referring their clients to others to assist information gathering. Some of those lawyers noted that they found it difficult to find websites to whom clients could be referred because of the

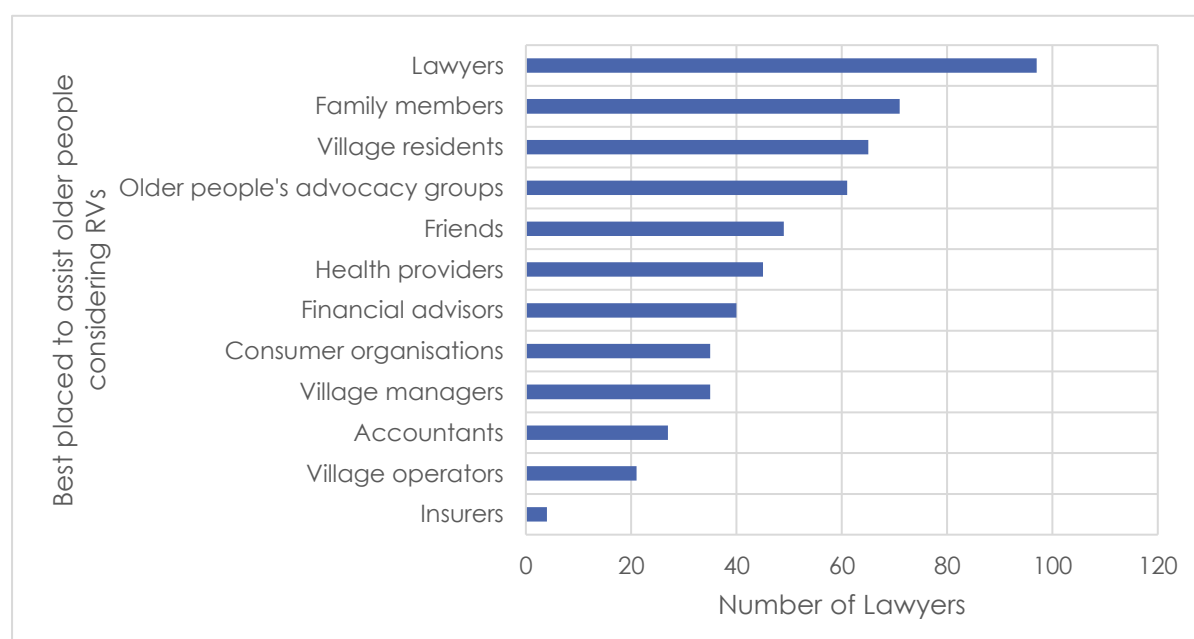
very diverse circumstances of their clients. Around 22 percent of lawyers referred clients to websites. Figure 6.7 list the websites to which those lawyers referred clients.

Figure 6.7 Websites to Which Lawyers Refer to Intending Residents (Lawyers Survey n=113)



While confident that they were best placed to assist older people, lawyers did identify others who could provide important assistance to older people thinking about retirement villages. Family members and residents in retirement villages were prominent (Figure 6.8).

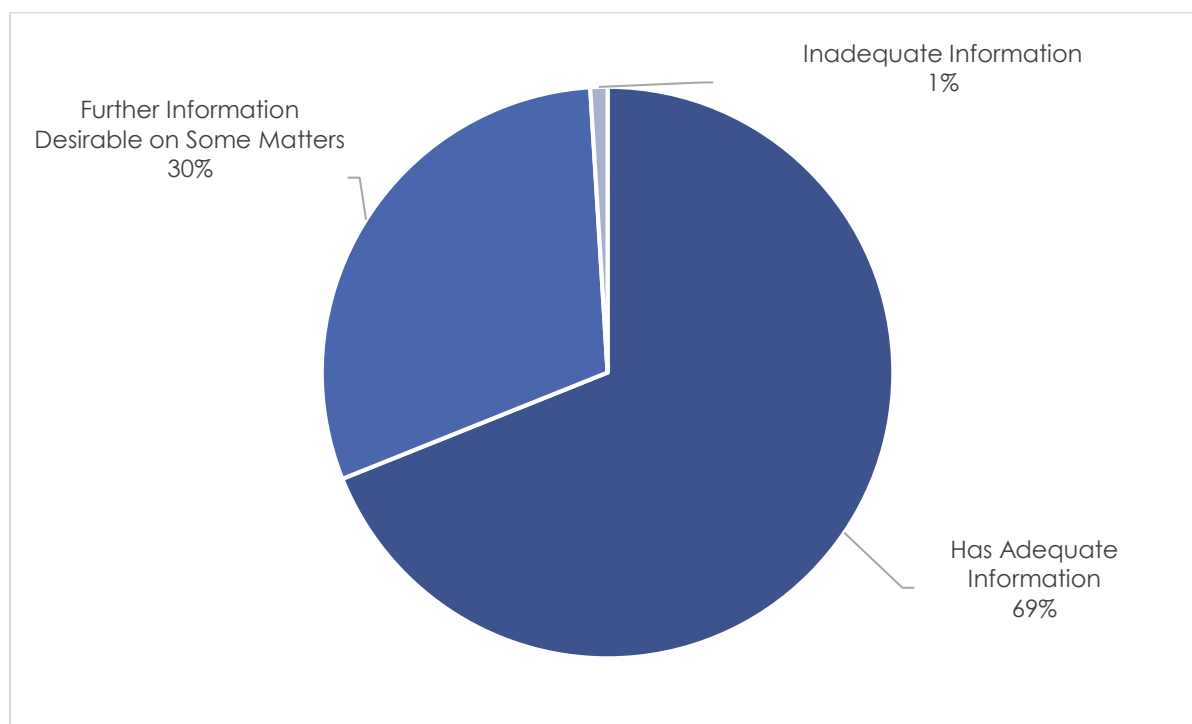
Figure 6.8 Lawyers Views on Those Best Placed to Assist Older People Considering RVs (Lawyers Survey n=113)



6.7 Confidence in Information Base

Overall, lawyers felt they had the information necessary to provide the independent legal advice indicated in the Retirement Villages Act (Figure 6.9), but a substantial minority felt that their ability to advise clients about retirement villages could be enhanced.

Figure 6.9 Lawyers Confidence in the Information Available to Them (Lawyers Survey n=113)



The following comments from lawyers give a flavour of the areas in which they feel that they would benefit from enhanced information:

“A checklist format, where the client can easily compare between facilities would be great.”

“A clear statement of what the village has [in the way of residential care] ... Often these things are not in the documents, but have been verbally advised to the client by the sales person. So often we have to ring and find out if they have them or if the client has to go to another institution.”

“A seminar...on adding value to the advising process.”

“An independent website collating consumer reviews and/or independent assessments of villages...it is an ongoing frustration that there is no specifications list etc. in the way we would expect for a house being constructed for a client.”

“Better understanding of the prospective resident’s true financial position.”

“Central information source for elder care and the services available via government funding. Currently the information is widely dispersed.”

“Details around insurance is often confusing as the operator often has a policy to cover the whole complex and not the individual replacement of a unit.”

“Information about staffing levels and policies regarding moving to the rest home.”

“More information about the company.”

“More information on the statutory supervisors and financial information of the operators.”

“More on the financial implications of choosing a retirement village as opposed to other options.”

Most lawyers focused on what might be referred to as the micro- or operational aspects of their information needs. Notwithstanding, in the in-depth interviews in particular, and among some survey participants, there was also a concern expressed around guidance required around the interpretation of the boundary of ‘independent legal advice’. The critical interpretative issue is that which lies around the notion of ‘implications’. The narrow interpretation of implications for an intending resident is framed around simple binaries. In that framing, lawyers’ responsibilities are to advise on the implications of the ORA in relation to specific actions or events such as termination or consumption of non-core services. A wider interpretation of ‘implications’ extends the binary approach to advising on an ORA to including advice around the suitability of a retirement village to the known circumstances of the client and/or information regarding the reputation, amenities, services and financial robustness of a village. These comments show a wider interpretation or treatment of ‘implications’.

“We also discuss whether the client is familiar with the reputation of the village, knows any current residents and their experiences, whether they have visited the village, understands the overall impact on their investment planning by having 25-30% of their investment disappear, that this is a financial dead end for them as they may not be able to afford moving out of the village.”

“Understanding what is happening to the client – they are making a substantial change in their lives...truly thinking about the client and their individual circumstances.”

“Many buy because they think they will have company but that is not always the case. I am also concerned...sometimes there is only one registered nurse on site from 9 to 5. The costs are getting very high, and in some cases higher than a house in town. I am always very frightened for clients...where their only income is National Super as I think long term it is not sustainable, but they are determined.”

From a monitoring perspective, this issue of the concept of ‘implication’ and its interpretation by lawyers is important. It suggests that some guidance may be required. Similarly, it is clear that many lawyers assume that ORAs are entirely non-negotiable. The consequence of that assumption is that clients must be advised to seek an entirely different village if there are some contractual elements which are unacceptable or less than optimal. Lawyers typically believe that such advice would be rejected immediately by clients because of the psychological attachment clients tend to develop in relation to their selected retirement

village. This phenomenon is commented on in previous research and recognised by both residents and lawyers.

Lawyers in this monitoring project commented that:

“There is a lot of information to explain to them and they have usually formed a relationship with the salesperson at the village and are resistant or surprised to find that what they think is not what the ORA says.”

“Anyhow, they are psychologically committed. It’s important they know what the deal is... They don’t appreciate whether it’s a lifestyle thing or whether it won’t suit them.”

“By the time they get to that part of the conversation [Disclosure Statement] the clients glaze over. It’s very difficult for them to sit back and reflect on things and the implications.”

“A lot are very excited about going in. They have visited and know people going in there... If they were diffident I would slow them down... they like the idea of being able to move to care... no, I don’t say to them there’s no guarantee to get a bed, because in my experience the village tries pretty hard... They don’t involve you until they’ve chosen the village. They’ve set their heart on it... [financial robustness of a village] a toughie, tension between discharging my professional duty and frightening them.”

Lawyers who fall within the ‘negotiator’ category do not treat ORAs as standardised or unchanging. They note that ORAs even within a single village and certainly a single operator change over time. They take that fluidity to mean that negotiation is possible. ‘Pastoral carer’ lawyers appear to take a less proactive negotiation approach, often because of concerns regarding the costs that might be associated with it, but they do tend to keep in close conversation with their clients over the cooling-off period. Some lawyers make an appointment with their clients towards the last few days of the cooling-off period to rehearse any issues that may have arisen. Even those ‘pastoral carer’ lawyers who find or believe that there is no negotiation around the ORA will, if they sense significant ambivalence or anxiety in their client, seek to extend the cooling-off period.

“It is information overload, which is why during the cooling-off period I highlight with a highlighter what they need to think about, then they can think about it.”

“I approach it, yes, you can change your mind. They and I have to be all over the cooling-off period.”

In reflecting on the most effective ways in which lawyers could access the information that lawyers saw as improving their ability to advise older clients, there was a strong desire for:

- targeted seminars and webinars
- tools for lawyers such as checklists to assist working through ORAs
- tools for lawyers and clients around the budgetary implications of different scenarios for clients
- tools to assist lawyers and clients talk about client options and life change.

6.8 Views on the Information and Advice Needs of Older People

Lawyers are well aware that older people looking at retirement villages receive an often overwhelming load of information and advice from a range of different people. While that may be useful, they note that some advice and information can be misleading or misdirected. They expressed concern about the intertwining of marketing and information provision by some retirement villages. A previous survey of lawyers⁸ suggested that lawyers found that many older people did not read the material in any depth and were often unable to differentiate between credible and less than reliable information. Lawyers in this monitoring project commented:

“It’s a whole new experience for [clients]. They are given a glossy brochure and buckets of paper, but it doesn’t mean they understand or appreciate it all. It’s not easily accessible or summarised. My job is to make the ORA clear.”

“The villages sell on the basis that they are offering a resort lifestyle but I feel at times the client is not going to get the advantage of the facilities as they are too old or have disabilities that would restrict their use of the facilities, but they are sold on the idea.”

Lawyers see the Disclosure Statement as an important document through which unequivocal and reliable information can be found. However, they also note that the usefulness of Disclosure Statements can be compromised by:

- Dense and over long material which does little to clarify and sometimes obscures information key to an older person’s decision.
- A tendency where a village is one of many operated by a corporate or a multi-village independent to be cluttered up by information about amenities not relevant to the particular village considered by a client.

In addition to changes in the nature of Disclosure Statements, Table 6.4 sets out the areas in which around half or more of lawyers believe information to older people considering retirement villages could be improved.

Table 6.4 Lawyer Views Regarding Areas of Information Needing Improvement (Lawyers Survey n=113)

Information Improvement Required	Lawyers	% Lawyers
Clarity around access to DHB funded services in-home	75	66
Itemised list of all amenities within the dwelling	55	49
Staffing levels and skills	54	48
Projections of future costs	54	48

⁸ K. Saville-Smith and B. James, 2015. *Retirement Villages: Advice, Information and Education*, Report Prepared for the Commission for Financial Capability.

7. CONCLUSIONS AND RECOMMENDATIONS

Key Insights

- Compared to monitoring research with retirement village residents undertaken some years ago, there is an improvement in the level of understanding among older people around tenure and retirement village living.
- The role of family in the process of seeking and receiving legal advice is pronounced.
- New retirement village residents overwhelmingly only considered the retirement village option when thinking about their housing options.
- Older people who attended the CFFC seminars showed a wider consideration of housing options and some decided that retirement village living was not for them.
- Most intending residents are satisfied with the advice they receive from lawyers.
- There is diversity among the intending residents and lawyers approach the delivering of advice in different ways, but have a core set of information and advice they convey.
- There are some areas, which can have important budgetary impacts for residents, that could usefully be given more consistent attention.
- There is clear opposition to a mandatory requirement for intending residents to use a lawyer specialising in retirement villages.
- There is no sense that there is a demand, or need for intending residents to be referred to financial advisors.
- Most intending residents see their lawyer during the period of decision-making at the point of signing an ORA.

This and previous monitoring, as well as previous research, show that those who take up residence in retirement villages tend to be satisfied with their move. This is partly due to self-selection bias and elective affinity.

As the *Find the Best Fit* research on older people's downsizing shows, the majority of older people have a very strong desire to stay in their own homes and therefore do not seek retirement village living. Among older people seeking to downsize, many choose to stay within the open housing market. A minority of those traditional market movers consider retirement village living. By way of contrast, the older people who actually moved to retirement villages tended only to consider the retirement village option. That tendency is also evident in this monitoring report.

There are real positives for the retirement village sector and for residents of retirement villages of that self-selection. It can contribute to low levels of disputes and high levels of satisfaction. Alternatively, however, the tendency for people to focus only on retirement village solutions for their housing needs can be associated with unrealistic expectations, potential conflicts, misunderstandings and dissatisfaction. Previous monitoring and research

have noted that some retirement residents were unsure of the nature of their tenure. The previous disputes resolution report commissioned by the CFFC demonstrated that some past disputes reflected fundamental misunderstandings by residents and their families about the nature of ORAs. Certainly there was some evidence of a desire to leave among some residents. A previous survey of 119 lawyers found that around 41 percent had at least one experience of a client wishing to leave a retirement village.⁹

Overall, the research undertaken for this monitoring report suggests a pronounced improvement in the level of understanding among residents around tenure and retirement village living. This is despite a few new residents being shaky on the technical term licence to occupy. Moreover, if effectiveness is measured by the extent to which intending residents are satisfied with the advice they receive from lawyers, then it must be concluded that the current legislative framework and practices by lawyers in relation to retirement villages are effective and appropriate.

It is notable in the few examples of new residents wishing to leave their retirement village identified in this monitoring, it was typically agreed that they understood the legal advice given to them. In two cases, the resident simply could not adjust to the life style. In one case, referenced by a lawyer, the individual had been ambivalent throughout and despite being advised to exit during the cooling-off period, she had decided to continue but subsequently wished to move to a retirement village in another region to be closer to children. The final example was someone who was disappointed that later stages of building, along with amenities she valued such as a picture theatre, were likely to be delayed.

There appear to be four conditions that contribute to this impression that new residents have a better understanding of their situation compared to those involved in the monitoring conducted in 2011 on residents' perspectives of the Retirement Villages Act:

- i. The sector has matured and there is more awareness around its operation among the older population and the people who support them. This includes recent residents who in the past have become involved in assisting their older relatives to move to a village.
- ii. A number of actors have made concerted efforts to provide information about the sector, its opportunities and constraints including individual retirement villages, the Retirement Villages Association, the Retirement Villages Residents Association NZ, Consumer NZ, Eldernet and the CFFC.
- iii. There is greater attention being given to disseminating information about different housing options for older people including renters evidenced in a number of research programmes and the recently promulgated update of the Health of Older People Positive Ageing Strategy.
- iv. In the context of support to legal practitioners, there have been significant inputs into supporting skills in elder law generally. That includes addressing the law around retirement villages.

⁹ K. Saville-Smith and B. James, 2015, *Retirement Villages: Advice, Information and Education*, Report Prepared for the Commission for Financial Capability.

In relation to the effectiveness of legal advice, it is notable that residents participating in the focus groups were supportive of the status quo. They saw the importance in retaining the mandatory nature of seeking independent legal advice. While we tested the idea of intending residents going to or being referred to ‘specialists’ in retirement villages, participants in the focus groups were adamantly and universally opposed to mandatory referral. This is consistent with three characteristics of the legal providers from whom intending residents received advice and services:

- i. Intending residents typically sought advice from a lawyer with whom they had a longstanding relationship. Where this was not the case, legal advice was often provided by a member of a practice with whom they had many years of experience or another lawyer they had used in the past.
- ii. Intending residents tended to bundle up a whole variety of legal service requirements in addition to dealing with ORAs and empowering powers of attorney. Many report dealing with wills, trusts, other estate matters, and the sale of previous homes. Those matters were already in the hands of their existing lawyers.
- iii. Intending and actual residents of retirement villages frequently see their lawyers as having an on-going interest in supporting them after they take up residence in a village. Examples were given by both lawyers and residents of where trusting, longstanding relations between lawyers and residents were critical in resolving issues that could have easily become persistent and intractable conflicts.¹⁰ The trust and confidence individuals have in their longstanding legal advisors cannot be underestimated as a success factor.

It is notable that the one example of a pronounced, albeit resolved, problem arising for an intending resident was engendered not because of a lack of familiarity of a lawyer with ORAs or the retirement village sector. It arose because the intending resident had not appreciated or forgotten the terms of a spouse’s will with regard to the dwelling in which the intending resident lived. The lawyer was new to the intending resident but was in the firm that had handled that individual and the late spouse’s affairs. It was the access of the lawyer advising the intending resident to the estate papers of the late spouse which allowed the problem to be recognised and dealt with. The intending resident would not have been able to disclose to a different lawyer that they only had a partial share in the dwelling being sold to finance the purchase of the LTO, because they simply did not realise that.

One concern about the effectiveness of legal advice has been the idea that some lawyers will deal with few ORAs and, consequently, be relatively unfamiliar with both the law and the sector. This research found that the lawyers who participated in the Lawyers Survey dealt with more than two ORAs over a two-year period and on average thirteen. There will clearly be some self-selection bias here. That bias, however, should not be over-stated. The lawyers responding to the Lawyers Survey accounted for a significant proportion of new residents reported by the industry to be taking up residence in retirement villages over the two years 2015 and 2016.

¹⁰ One related to a change in the arrangements around on-call staffing to independent villas from the co-located residential care facility. Another related to the status of a partner in the village. The former was resolved through an agreement to transfer the resident to a different village in an affordable rate. The latter involved a change in the ORA.

In reviewing the data from the Lawyers Survey and in-depth interviews with lawyers, as well as reflecting on the data generated by the CFFC seminar attendees and new residents, there is some indication that the effectiveness and consistency of legal advice could be enhanced.

Indicators are:

- i. A substantial, albeit minority, proportion of lawyers who feel that they do not always have the information they need to advise effectively. There are a range of issues tucked into this concern:
 - Some lawyers report having to seek out further information from a village typically because of:
 - the generic nature of some Disclosure Statements which apply across a number of villages under the management of a single operator;
 - apparent contradictions between a client's understanding of what has been said to them and the ORA received;
 - concerns around affordability implications for a client and how this will align with village and fee/expenditure projections.
 - Some lawyers are concerned to explore the implications of new products or practices within the retirement village sector including provision of lending to purchase LTOs.
 - Some lawyers reported that they found it very difficult to get the levels of detail they felt necessary to advise on matters such as costs around repairs, service issues, staffing levels, disposition of capital gain or loss, or other risks. In relation to the latter, a couple of lawyers reported approaching statutory supervisors but they were unsuccessful in receiving the information they needed.
- ii. Variations in:
 - Coverage with low levels of attention given to key issues which may emerge for residents around such things as DHB in-home service provision, some aspects of termination including potential for village initiated assessments, costs and affordability associated with moving along the housing continuum and care, and implications of remarriage.
 - Approach and assumptions, in particular around the extent to which ORAs are standardised and opportunities for negotiation.
 - Interpretation of the requirement to advise on 'implications'.

Lawyers are typically very aware that they are dealing with clients who have made a psychological commitment to retirement village living and, often, to a particular village. Both residents and lawyers agree that understanding the information put before residents and appreciating how retirement village living will suit an individual or changing circumstances can be very different. Not all potentialities and issues can be advised on and many are not, in a sense, legal issues. However, there are certainly legal constraints on how residents can change their personal environment, act, or exit. Consequently, it is in the interests of villages and the older people who consider them, to ensure that older people and their families and supporters have a sound base for decision-making.

A number of lawyers reported that they would like to see more face-to-face engagement with older people about retirement villages as well as other housing options as part of supporting people to think about retirement. Some lawyers also raised the possibility of budgetary tools to help older people, and lawyers explain to clients, the way in which different contingencies

might ‘play out’ for an individual living in a retirement village. That desire was also evident among some older people, both among the new residents and the CFFC seminar attendees, but also in other research undertaken into older owner occupiers and downsizing.¹¹ Here and previously, the development of a tool to allow residents to compare villages across a range of metrics was raised. Previous research with older people and retirement village residents suggest that the information provided to older people needs to cover a wide range of information which often is not given prominence. The metrics in such a tool would need to capture those issues. Finally, lawyers and residents both raised the need for improving the accessibility and utility of Disclosure Statements which were often described as a ‘dumbed-down’ ORA rather than a genuinely accessible document about the selected village.

What did not emerge, either from residents or lawyers, was a sense that intending residents need to be referred to financial advisors of the type regulated by the Financial Markets Authority. Retirement village residents are very clear, as are lawyers, that the purchase of a place in a retirement village is not an investment and may be a difficult asset to liquidate. The value in retirement village living for an older person resides in what is variously referred to as use, consumption or amenity value. This is not a strength of the financial advice sector.

What is a challenge for people making decisions about retirement village living is what might be seen as the actuarial aspect of the contract they are currently signing and the implications for their ability to move if necessary from independent dwelling, to serviced apartment and possibly to residential care. For some wealthy older people, these matters, or, indeed, exit may not be a financial concern or a barrier to re-housing. This is not the case for many who buy into retirement villages. (The diverse characteristics of retirement village residents are discussed later). The development of the equivalent of a ‘get sorted’ for retirement village scenario building would be useful to residents, lawyers and other formal and informal advisers and supporters. It would be more useful and associated with less risk of unintended consequences than mandatory, or even promoting voluntary, referral to financial advisers.

It will be evident from earlier discussion that the notion of mandatory or even promoting referral to legal ‘specialists’ in retirement villages also does not appear desirable. Residents want competence and empathy, not specialisation. Indeed, in the context of decisions regarding retirement villages, it could be argued that understanding the client and their circumstances, makes a significant difference to the effectiveness of a lawyer’s advice. Longstanding relations with lawyers are valued by intending residents. It is likely to optimise the effectiveness of legal advice by clients being more receptive and contributes to a lawyer’s ability to advise effectively on implications of an ORA for a particular client. There are, too, potential risks around promoting referral to a ‘specialist’. It may be associated with increased costs due to ‘de-bundling’ from other legal services and reducing economies of scale. It may have the unintended consequence of fragmenting and dis-integrating the decisions and processes around the village from other legal services such as conveyancing, wills, trust and other estate management.

¹¹ The tool that emerged from recent downsizing research completed in 2016, specifically noted and emerged from a recognition that older people needed to be able to canvass a whole range of housing options prior to focusing on the specifics of one solution or comparing different retirement villages. See www.goodhomes.co.nz.

The key, then, appears to be in supporting and enhancing the skills and competencies of lawyers. There are clearly some areas in which improved guidance would be advantageous, particularly around two dimensions:

- i. The definition and scope of the statutory reference to ‘implications’;
- ii. The boundary between financial advice and advising on budgetary, property and related matters.

There are also some areas where some lawyers might need to give increased attention because they impact on the affordability and sustainability of retirement village living. Those include but are not limited to such issues as on-site access to services including in-home care delivered by external funders and agencies, retirement village initiated assessment for independent living, and changing marital status or cross-age eligibility. There may be, too, useful resources available in written or online form which will enhance the effectiveness of legal advisers. We have already noted checklists and the development of budget-advice and scenario tools. It is notable that many lawyers have already developed such tools and some are willing to share those.

Lawyers also report that opportunities to network, seminars and webinars are useful platforms for them to enhance their skills, understanding and knowledge. This may be particularly useful for lawyers in rural areas who are the only, or are one of a very few lawyers, who have retirement village clients. There are three areas which seem to offer opportunities:

- i. Ensuring that lawyers are aware of the new developments, directions, conditions and products in what is a very dynamic retirement village sector.
- ii. Understanding the differences and interface between the retirement village sector and the residential care sector.
- iii. Best practice around critical points of their clients’ decision-making, in particular the cooling-off period.

With regard to the latter, a range of behaviours were reported by lawyers from simply ensuring that clients knew there was a cooling-off period and when that would cease, to taking a very proactive stance of engaging with the client immediately prior to the end of the period. The latter would sometimes include negotiating with a retirement village for short extensions.

In developing ways to enhance the effectiveness of legal advice, it must be recognised that both lawyers and intending residents have pronounced tendencies. Lawyers broadly fall into three types. At one end, what we have referred to as ‘administrator’ lawyers, there is a strong focus on the contract and the direct consequences of clauses. The ‘pastoral carer’ lawyers tend to combine those concerns with what might be seen as a pastoral approach. Their focus goes beyond the contract with attempts to make an assessment of the alignment between the retirement village aspiration or solution and the temperament as well as the circumstances of the client. They typically are proactive around the cooling-off period and ensuring that the intending resident has reflected on a variety of issues that might affect their comfort at a particular village or retirement village living in general. What differentiates the third segment of lawyers is their fundamental position that they are an active agent for their clients and everything in an ORA is potentially up for negotiation. ‘Administrator’ lawyers tend to see

ORAs as not negotiable at all. There are a few very inexperienced lawyers that are not aware of the variation ORA conditions can show, even among the same operator over time.

Among intending residents, three segments may be discerned:

- Those who are highly proactive in reflecting on their own needs and circumstances as well as the nature of the retirement village sector and the offerings of different villages on the market.
- Those who will readily engage with a lawyer and ask pertinent questions and have directly or with the assistance of family and/or friends looked at different retirement villages.
- Those who tend to be passive. They may have visited retirement villages but are largely relying on their supporters and particularly on their lawyer to ensure that a village is suitable to their needs.

Overlaid across those segments is further diversity along the following dimensions:

- i. There is considerable variation in both wealth and income. Retirement village residents are wealthier, have higher incomes, and more diverse sources of income than older people in general. However, recent research shows wealth and income differentiation still exists among intending residents.¹² Changes in debt exposure among older home owners can be expected to exacerbate that differentiation.¹³ Indeed, in this monitoring research, there were examples of older people who had to clear mortgages on their owner-occupied dwelling to purchase an LTO.
- ii. While retirement village residents, especially as some villages are raising the age of entry, may be both older and frailer than, for instance, other older downsizers who also use legal services, lawyers need to be careful not to make assumptions around levels of frailty or assume that current illness or loss of functionality will be chronic. Older people's functionality and conditions can remain stable, worsen or improve. This needs to be taken account of.
- iii. There is considerable diversity, irrespective of wealth and income, around the educational and occupational experience of intending residents. Some may have considerable experience in occupations requiring high degrees of literacy and dealing with complex written material including legal documents. Others will not, despite having had successful careers or businesses. It should be remembered that some of the older intending residents had their childhood in a period of early school leaving and limited access to tertiary education.

Ensuring that legal advice is effective involves lawyers in the task of not only dealing with the law and contracts, but also understanding and responding to the different sorts of people seeking legal advice from them. Enhancing lawyers' ability to undertake that task and go beyond a narrow conception of advice evident among lawyers with an 'administrative' type

¹² K. Saville-Smith, B. James, M. Rehm, 2016, *Equity Release – Realities for Older People*, Report in *Find the Best Fit* Research Programme, <http://downsizing.goodhomes.co.nz/resources/downloads/Equity%20Realisation%20and%20Older%20People.pdf>.

¹³ This is indicated in K. Saville-Smith, 2013, *Housing Assets: A Paper for the 2013 Review of Retirement Income*, Prepared for Commission for Financial Literacy and Retirement Income, <http://www.cffc.org.nz/assets/Documents/RI-Review-2013-Housing-Assets-and-Retirement-Income.pdf>.

approach appears to be at the heart of optimising the effectiveness of independent legal advice.

Recommendations

- Consider developing a scenario-building tool for retirement village living, similar to ‘get sorted’ for older people and lawyers to test the impacts of different scenarios on the budget implications of retirement village living.
- Enhance lawyers’ ability to access the range of information they need to advise intending residents effectively.
- Enhance lawyers’ ability to respond and tailor their advice to the specific needs and circumstances of their clients.
- Provide improved guidance for lawyers around: the definition and scope of the statutory reference to ‘implications’; and the boundary between financial advice and advising on budgetary, property and related matters.
- Improve the accessibility and utility of Disclosure Statements.
- Continue to support public and older people’s awareness of the nature of retirement village living with the CFFC seminar.

ANNEX A: CFFC SEMINAR ATTENDEES SURVEY

Survey of Commission for Financial Capability Seminar Attendees

INTRODUCTION

Welcome.

The Centre for Research, Evaluation and Social Assessment (CRESA) has been commissioned by the Commission for Financial Capability to explore the experiences and needs of people accessing legal advice around retirement village living including wanting to purchase a license to occupy.

Your intentions and views are particularly important because you have participated in one of the seminars presented by the Commission for Financial Capability in the last year.

If you would prefer to complete a survey over the telephone with an interviewer please ring CRESA Freephone 0508 427372 and leave a contact number and we will call you back to arrange a time.

If you would like to know more about the research, please contact Kay Saville-Smith or Ruth Fraser at CRESA on Freephone 0508 427372.

1. At the time of the Seminar what best describes your situation regarding possible retirement village living? (Please select the ONE response that fits best)

<input type="checkbox"/>	Retirement villages were just one option I was considering, no decisions had been made.
<input type="checkbox"/>	Retirement villages were my/our preferred option but we hadn't selected a particular village yet
<input type="checkbox"/>	I/we had decided which retirement village we liked but not done anything formal yet
<input type="checkbox"/>	I/we had signed a retirement village application form and paid a deposit
<input type="checkbox"/>	I/we knew the village we wanted to live in and were about to sign the occupation right agreement
<input type="checkbox"/>	I/we had already signed an occupation right agreement for our chosen village
<input type="checkbox"/>	Other (please specify) _____

2. At the time of the Seminar what best describes your contact with a lawyer about possible retirement village living? (please select all that apply)

<input type="checkbox"/>	I had not discussed the possibility with a lawyer at all
<input type="checkbox"/>	I have had a general conversation with a lawyer about housing options including retirement villages
<input type="checkbox"/>	I had been to talk to a lawyer before we started seriously looking at different retirement villages
<input type="checkbox"/>	I had been to talk to a lawyer because there was a village I liked
<input type="checkbox"/>	I had been to talk to a lawyer before I completed the village application form and paid a deposit.
<input type="checkbox"/>	I had been to a lawyer because I was about to sign an occupation right agreement
<input type="checkbox"/>	Comments (if any) _____

3. Are you currently living in a retirement village? (please select the one response that fits best)

<input type="checkbox"/>	Yes
<input type="checkbox"/>	Not yet but I/we have signed an occupation right agreement
<input type="checkbox"/>	No I/we are still looking
<input type="checkbox"/>	No I/we have decided against retirement village living
<input type="checkbox"/>	No I/we can't find a retirement village we like
<input type="checkbox"/>	No I/we can't find a retirement village we can afford

4. Did you move into this retirement village or sign your occupation right agreement (ORA) after the Commission for Financial Capability seminar?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Not sure if it was before or after
<input type="checkbox"/>	Comments (if any)

5. Did you/your partner consider moving to a home that was not in a retirement village?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

6. How many months have you been living in this retirement village (or if you are not living there yet, when do you move in)? An estimate is fine

7. Did you stay with the same lawyer over the whole period that you were applying for and entering into the contract to go into a retirement village?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Can't recall

8. If you changed lawyers can you tell me why you changed lawyers?

<input type="checkbox"/>	I was dissatisfied with my original lawyer
<input type="checkbox"/>	I was recommended an alternative lawyer – Specify who made the recommendation in the comment box below
<input type="checkbox"/>	Other (please specify) _____
<input type="checkbox"/>	Comments _____

9. Which of the following best describes the lawyer who witnessed your signature for the occupation right agreement and certifies that you had been advised on the conditions associated with the retirement village you now live in? Were they ... Please select the ONE response that fits best

<input type="checkbox"/>	A lawyer who you'd had no contact with prior to looking to move into a retirement village
<input type="checkbox"/>	A lawyer that you usually use to deal with your legal requirements
<input type="checkbox"/>	A lawyer you have used in the past but is not your usual lawyer
<input type="checkbox"/>	The lawyer of a family member or friend
<input type="checkbox"/>	Other (please specify) _____

10. Below is a list of documents related to moving into a retirement village. Please tick yes or no to indicate which ones your lawyer advised you on.

	Yes	No	Not sure
Disclosure Statement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Occupation Right Agreement (sample or actual)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Village Rules	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Code of Practice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Code of Residents' Rights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Operator's audited financial statements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Application form to become a resident	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Deed of supervision between the operator and the statutory supervisor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Management agreements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

11. And which of the following topics did the lawyer advise you on? please select one response for each topic

	Yes	No	Not applicable	Don't recall
Insurance coverage for the unit you would be moving into	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Contents insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Processes and costs for repairs & maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monthly fees – what was included in them and how they might change.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
What services attract additional fees, as distinct from 'core services'	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Whether District Health Board funds can be accessed for home care or whether care services must be purchased from the operator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rights or restrictions on the use of amenities such as swimming pools, bowling greens, etc.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disputes, and dispute resolution processes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The ability to terminate residency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The financial position of a village or its operator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12. And did the lawyer advise you on any of these other topics ...? Select yes or no for each topic

	Yes	No	Don't recall
The affordability of a village if your financial circumstances change	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The financial implications of moving from an independent villa to a serviced apartment, or to a rest home or hospital care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The financial implications of moving to a different village run by another operator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Whether you can have overnight guests	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Who can reside with you in your unit, either on a temporary or permanent basis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Age-related restrictions, and marriage to a person outside the eligible age for entry into the village	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any future development/building work expected in the village	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any other topics that your lawyer advised you on? (please specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other topics _____

13. If you went in to the village as a couple did the lawyer advise you on whether ...? select one response for each item

	Yes	No	Don't recall	N/A – moved in alone
The implications of continued residence in your unit or costs if either you or your partner require care in your unit or a rest home or hospital and the other person didn't	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The implications of marital separation for your village status	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

14. Did the lawyer also deal with any other matters outside of the village such as wills, enduring power of attorney etc? Please select yes, no or can't recall for each of the following

	Yes	No	Don't recall
Wills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Power of attorney	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Advanced directives regarding resuscitation or other major health directives	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Advice around an existing family trust	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Advice around a new family trust	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any other estate matters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments (if any)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

15. Apart from your lawyer, their staff and yourself, did anyone else attend your meetings with the lawyer? (Select all that apply)

<input type="checkbox"/>	No - no one else
<input type="checkbox"/>	Yes, my partner
<input type="checkbox"/>	Yes, a friend
<input type="checkbox"/>	Yes, my son/daughter
<input type="checkbox"/>	Yes, another family member
<input type="checkbox"/>	Don't know/can't recall
<input type="checkbox"/>	Someone else (please specify) _____

16. Overall, do you feel you got the information you needed from your lawyer to make a good decision...

<input type="checkbox"/>	On all necessary matters relating to retirement villages
<input type="checkbox"/>	On some, but not all, matters
<input type="checkbox"/>	Not at all
<input type="checkbox"/>	Comment (if any) _____

17. Thinking back, overall, were you satisfied with the legal advice you received? (please select one response that fits best)

<input type="checkbox"/>	Yes, entirely
<input type="checkbox"/>	Yes, but not entirely
<input type="checkbox"/>	No
	If you weren't entirely satisfied or not satisfied why was that? <hr/> <hr/> <hr/>

18. Other than a lawyer (if you talked to one) where else did you get advice or information about retirement villages from? (please select all that apply)

<input type="checkbox"/>	Family
<input type="checkbox"/>	Friends
<input type="checkbox"/>	Village operator/manager
<input type="checkbox"/>	Statutory supervisor
<input type="checkbox"/>	Retirement Village Committee
<input type="checkbox"/>	Other residents at the village
<input type="checkbox"/>	RVRANZ (Retirement Village Residents Association)
<input type="checkbox"/>	Accountant
<input type="checkbox"/>	Other financial advisor
<input type="checkbox"/>	Nurse or doctor
<input type="checkbox"/>	Citizens Advice Bureau
<input type="checkbox"/>	Age Concern
<input type="checkbox"/>	Grey Power
<input type="checkbox"/>	Eldernet
<input type="checkbox"/>	People at Ministry of Business, Innovation and Employment (MBIE)
<input type="checkbox"/>	Department of Building and Housing
<input type="checkbox"/>	Ministry of Consumer Affairs
<input type="checkbox"/>	Retirement Commission
<input type="checkbox"/>	Commission for Financial Capability
<input type="checkbox"/>	Work and Income
<input type="checkbox"/>	Sorted website - www.sorted.org.nz
<input type="checkbox"/>	Companies Office register/website
<input type="checkbox"/>	Other (specify) _____

19. Do you know that you need to get independent legal advice before signing an occupation right agreement?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

20. If yes how did you find that out? (select all that apply)

<input type="checkbox"/>	Own general knowledge
<input type="checkbox"/>	Family members
<input type="checkbox"/>	Lawyer
<input type="checkbox"/>	Retirement village operator
<input type="checkbox"/>	Retirement village manager or staff
<input type="checkbox"/>	Real estate agent
<input type="checkbox"/>	From the Commission for Financial Capability seminar
<input type="checkbox"/>	Other (please specify) _____
<input type="checkbox"/>	I don't recall
<input type="checkbox"/>	Own general knowledge

21. How do you like to receive information about housing choices available?
Please select ONE response that fits best.

<input type="checkbox"/>	face-to-face
<input type="checkbox"/>	hard copy written information
<input type="checkbox"/>	website/accessible on-line information
<input type="checkbox"/>	Other (please specify) _____

22. First of all, which of the following age group are you in?

<input type="checkbox"/>	55-64 years
<input type="checkbox"/>	65-74 years
<input type="checkbox"/>	75-84 years
<input type="checkbox"/>	85 years or over

23. Does anyone else live with you?

<input type="checkbox"/>	No one else I live alone
<input type="checkbox"/>	My spouse or partner
<input type="checkbox"/>	Dependent child(ren)
<input type="checkbox"/>	Non-dependent child(ren)
<input type="checkbox"/>	A younger relative
<input type="checkbox"/>	A friend(s)
<input type="checkbox"/>	Other (please specify)
<input type="checkbox"/>	No one else I live alone

24. Do you have a current driver's licence?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

25. Do you get any paid or unpaid help from anyone not living in your household with any of the following....? (please select all that apply)

<input type="checkbox"/>	I/we do not receive any help
<input type="checkbox"/>	Housework
<input type="checkbox"/>	Meals
<input type="checkbox"/>	Any other help (please specify)

26. Finally are you ...

<input type="checkbox"/>	Male
<input type="checkbox"/>	Female

Thank you for taking the time to complete this survey.

Please click the DONE button below to submit your responses.

ANNEX B: NEW RESIDENTS SURVEY

Retirement Village New Residents Survey

The Centre for Research, Evaluation and Social Assessment (CRESA), on behalf of the Commission for Financial Capability is undertaking research into experiences around accessing legal advice for people looking at retirement village living, signing up to purchase and new residents of retirement village.

The new residents survey is for people currently living in a retirement village who have moved in approximately sometime with the last year (so between January 2016 and now) and live independently. The survey takes about 10 minutes to complete and everyone who takes part will go in the draw for one of 25 grocery vouchers worth \$50 each.

All responses are confidential and anonymous. Results will be aggregated and no individuals or specific retirement villages will be identifiable. If you are happy to complete a survey please continue below.

If you would like to know more about this research, please contact Kay Saville-Smith or Ruth Fraser at CRESA, on Freephone 0508 427372

Circle the number of the answer(s) you wish to select.

QA. Did you move into this retirement village within the last year or so (i.e. between January 2016 and now)? *(please circle one of the two options)*

1Yes

2No – **thank you but this survey is for new residents only**

Current Retirement Village

1. First of all, when did you move into this retirement village?

Year: _____ Month: _____

2. Do you live in a... *(please circle one response that fits best)*

- 1Detached or stand-alone house/unit
- 2A semi-detached house/unit (i.e. two units joined by one wall)
- 3Multi-unit (i.e one that has a number of units attached beside each other)
- 4Or an apartment (i.e a unit in a building which has one or more apartments on different floors)

3. Do you rent this property, have a licence to occupy, own it, or have a unit title?
... *(please circle one response that fits best)*

- 1Rent
- 2Licence to occupy
- 3Ownership
- 4Unit title
- 5Unit title with body corporate
- 6Lease
- 98 ..Don't know

4. When you moved into this retirement village was this the first time you had experienced retirement village living? ... *(please circle one response that fits best)*

- 1Yes
- 2No – I had previously lived in a different retirement village

5. Did you consider moving to a home that was not in a retirement village?
(please circle one response that fits best)

- 1Yes
- 2No

Legal Advice

The next few questions are about the legal advice you received before moving into the retirement village.

6. Which of the following best describes when you first made contact with a lawyer about possible retirement village living? Was it... *(please circle one response that fits best)*
- 1Before I/we started to seriously look at different retirement villages
 - 2When I/we had decided which retirement village I/we liked but before completing the retirement village application form and paying a deposit
 - 3When I/we made the application or paid the deposit
 - 4When I/we had to sign the occupation right agreement (ORA)
 - 5Don't know/can't recall
7. How did you find out that you needed to get independent legal advice before signing an occupation right agreement? *(please circle all that apply)*
- 1Own general knowledge
 - 2Family members
 - 3Lawyer
 - 4Retirement village operator
 - 5Retirement village manager or staff
 - 6Real estate agent
 - 96 ..Other *(please specify)* _____
8. Did you stay with the same lawyer over the whole period that you were applying for and entering into the contract to go into a retirement village? *(please circle one response that fits best)*
- 1Yes → go to question 9
 - 2No → go to question 8a
 - 98 ..Don't know/can't recall → go to question 9

8a. Can you tell me why you changed lawyers? *(please circle all that apply)*

- 1I was dissatisfied with my original lawyer
- 2I was recommended an alternative lawyer – Who made the recommendation? *(please specify)* _____
- 96 ..Other *(please specify)* _____

9. Which of the following best describes the lawyer who witnessed your signature for the occupation right agreement and certified that you had been advised on the conditions associated with the retirement village you now live in?

Were they... *(please circle one response that fits best)*

- 1 A lawyer who you'd had **no** contact with prior to looking to move into a retirement village
- 2 A lawyer that you **usually** use to deal with your legal requirements
- 3 A lawyer you have used in the past but is not your usual lawyer
- 4 The lawyer of a family member or friend
- 96 Other *(please specify)* _____

10. Below is a list of documents related to moving into a retirement village. Please indicate which ones the lawyer advised you on. *(please circle one response for each document)*

	Yes	No	Don't recall
a. Disclosure Statement	1	2	98
b. Occupation Right Agreement (sample or actual)	1	2	98
c. Village Rules	1	2	98
d. Code of Practice	1	2	98
e. Code of Residents' Rights	1	2	98
f. Operator's audited financial statements	1	2	98
g. Application form to become a resident	1	2	98
h. Deed of supervision between the operator and the statutory supervisor	1	2	98
i. Management agreements	1	2	98

11. And which of the following topics did the lawyer advise you on? (please circle one response for each topic)

	Yes	No	Don't recall
a. Insurance coverage for the unit you would be moving into	1	2	98
b. Contents insurance	1	2	98
c. Processes and costs for repairs & maintenance	1	2	98
d. Monthly fees – what was included in them and how they might change.	1	2	98
e. What services attract additional fees, as distinct from 'core services'	1	2	98
f. Whether District Health Board funds can be accessed for home care or whether care services must be purchased from the operator	1	2	98
g. Rights or restrictions on the use of amenities such as swimming pools, bowling greens, etc.	1	2	98
h. Disputes, and dispute resolution processes	1	2	98
i. The ability to terminate residency	1	2	98
j. The financial position of a village or its operator	1	2	98

12. And did the lawyer advise you on any of these other topics? (please circle one response for each topic)

	Yes	No	Don't know/ can't recall
a. The affordability of a village if your financial circumstances change	1	2	98
b. The financial implications of moving from an independent villa to serviced apartments, or to a rest home or hospital care	1	2	98
c. The financial implications of moving to a different village run by another operator	1	2	98
d. Whether you can have overnight guests	1	2	98
e. Who can reside with you in your unit, either on a temporary or permanent basis	1	2	98
f. Age-related restrictions, and marriage to a person outside the eligible age range	1	2	98

Q13 And if you went in to the village as a couple did the lawyer advise you on whether? *(please circle one response for each item)*

	Yes	No	Don't know/ can't recall	Not applicable (did not move in as a couple)
a. The implications of continued residence in your unit or costs if either you or your partner require care in your unit or a rest home or hospital and the other person didn't	1	2	98	95
b. The implications of marital separation	1	2	98	95

Q14 How long did you spend with your lawyer getting advice on retirement villages and your liabilities and protections as a retirement village resident? *(please note number of hours - an estimate is fine)*

Number of hours: _____

Q15 How many meetings did you have with your lawyer about entering a retirement village?

Number of meetings: _____

Q16 Apart from your lawyer, their staff and yourself, did anyone else attend your meetings with the lawyer? *(please circle all that apply)*

- 1Yes, my partner
- 2Yes, a friend
- 3Yes, my son/daughter
- 4Someone else *(please specify)* _____
- 5No one else it was just me

Q17 Overall, do you feel you got the information you needed from your lawyer to make a good decision... *(please circle one response that fits best)*

- 1On all necessary matters relating to your move to the retirement village
- 2On some, but not all, matters
- 3Or not at all

Q18 Was there any additional information or advice you would have liked to have received from your lawyer at that time?

Q19 Approximately how much did the legal advice cost you overall? *(please circle one response that fits best)*

- 1\$500 or less
- 2\$501 - \$1,000
- 3\$1,001 - \$1,500
- 4\$1,501 - \$2,000
- 5\$2,001 - \$2,500
- 6More than \$2,500
- 98 ..Can't recall

Q20 And overall were you satisfied with the legal advice you received? *(please circle one response that fits best)*

- 1Yes, entirely
- 2Yes, but not entirely
- 3No

If you were not (entirely) satisfied with the legal advice you received, why was that?

Q21 Other than your lawyer who else did you get advice from? (please circle all that apply)

- 1Family
- 2Friends
- 3Village operator/manager
- 4Statutory supervisor
- 5Retirement Village Committee
- 6Other residents at the village
- 7Lawyer
- 8Accountant
- 9Other financial advisor
- 10Nurse or doctor
- 11Citizens Advice Bureau
- 12Age Concern
- 13Grey Power
- 14.....Eldernet
- 15People at Ministry of Business, Innovation and Employment (MBIE)
- 16Department of Building and Housing
- 17Ministry of Consumer Affairs
- 18Retirement Commission /Commission for Financial Capability
- 19Work and Income
- 20Sorted website – www.sorted.org.nz
- 21Companies Office register/website
- 96Other (please specify) _____

The final few questions are about your current situation

Q22. First of all, which of the following age groups are you in? *(please circle one response that fits best)*

- 155-64 years
- 2 ...65-74 years
- 375-84 years
- 485 years or over

Q23 Does anyone else live in your unit with you? *(please circle all that apply)*

- 1No one else (I live alone)
- 2Your spouse or partner
- 3Dependent children
- 4Non-dependent children
- 5Younger relative
- 7Friends
- 96 ..Other *(please specify)* _____

Q24 Do you have a current driver's licence? *(please circle one response that fits best)*

- 1Yes
- 2No

Q25 Do you get any paid or unpaid help from anyone NOT living in your household, with your....? *(please circle all that apply)*

- 1Housework
- 2Meals
- 3Any other help *(please specify)* _____
- 97 ..No, I do not receive help →go to Q27

Q26 Is any of this help provided.... *(please circle all that apply)*

- 1By the retirement village for a fee
- 2By others you pay directly
- 3By the District Health Board free of charge
- 4Covered by ACC
- 5By family or friends, free of charge

The next question will help us to understand the financial situation of people who live in retirement villages. Please remember your answers are completely confidential.

Q27 Which of the following sources of income do you receive? *(please circle all that apply)*

- 1New Zealand Superannuation, or veterans or war pension
- 2Other superannuation, pension or annuities
- 3Wages, salary, commissions, bonuses etc. paid by an employer
- 4Self-employment, or a business that you own and work in
- 5Interest, dividends, rent, or other investments
- 6Regular payments from ACC or a private work accident insurer
- 7A government benefit, such as the sickness benefit, DPB, invalids benefit, or student allowance.
- 8Any other government benefits, such as an accommodation supplement.
- 9Other sources of income, including support payments from people who do not live in your household

Q28 Are you ...?

- 1Male
- 2Female

Q29 If you have any other general comments about the legal advice you received or the legal advice you think new residents need please note them here

Thank you very much for your time. Those are all the questions we have. If you would like to be entered in the draw to win one of the grocery vouchers please provide a name and contact details so we can contact you if you win.

NAME: _____

CONTACT PHONE OR EMAIL: _____

ANNEX C: LAWYERS SURVEY

Legal Advice for Intending Retirement Village Residents - Lawyers Survey 2016/17

In 2015 the Commission for Financial Capability conducted research on the advice and information needs of older people around retirement villages. Building on that work, the Commission now wants to better understand:

- The advice lawyers give to intending retirement village residents.
- The aspects of retirement village law that lawyers feel comfortable about giving advice.
- Whether lawyers see a need for intending residents to be advised by others, such as financial advisers, accountants or insurers.
- Whether lawyers would like more training and/or resources to support and enhance their provision of advice to intending residents.

- 1. In the last two years have any clients sought your advice regarding the possibility of buying into a retirement village either for themselves or a family member?**

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

- 2. Approximately how many clients in the last two years have sought advice about moving into retirement villages? An estimate is fine**

- 3. When they first come to you for advice about buying into a retirement village, approximately what proportion of your clients fall into the following categories? An estimate is fine**

% that are considering a range of housing options - including retirement villages	% _____
% that have already made a decision to go into a retirement village and are just choosing which specific village	% _____
% that have selected a village and want to sign an occupation right agreement, have their signature witnessed and certified that a lawyer has explained the implications of their decision.	% _____
% in other category (please explain) _____	% _____

4. In the last two years have you also provided advice to a village operator or manager on a retirement village matter?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

5. Which of the following documents do you typically advise clients on in relation to retirement villages? (Select ONE response for each row)

	Yes	No
Disclosure Statement	<input type="checkbox"/>	<input type="checkbox"/>
Occupation Right Agreement (sample or actual)	<input type="checkbox"/>	<input type="checkbox"/>
Village Rules	<input type="checkbox"/>	<input type="checkbox"/>
Code of Practice	<input type="checkbox"/>	<input type="checkbox"/>
Code of Residents Rights	<input type="checkbox"/>	<input type="checkbox"/>
Operator's audited financial statements	<input type="checkbox"/>	<input type="checkbox"/>
Application form to become a resident	<input type="checkbox"/>	<input type="checkbox"/>
Deed of supervision between the operator and the statutory supervisor	<input type="checkbox"/>	<input type="checkbox"/>
Management agreements	<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>	<input type="checkbox"/>

6. In the course of advising clients around retirement villages, do you also advise about any of the following? (Select ONE response for each row)

	Yes	No
Enduring Power of attorney	<input type="checkbox"/>	<input type="checkbox"/>
Power of attorney	<input type="checkbox"/>	<input type="checkbox"/>
Wills	<input type="checkbox"/>	<input type="checkbox"/>
Advanced directives regarding resuscitation and other major health interventions	<input type="checkbox"/>	<input type="checkbox"/>
Existing family trust	<input type="checkbox"/>	<input type="checkbox"/>
Estate matters	<input type="checkbox"/>	<input type="checkbox"/>
Any other financial matters or investments	<input type="checkbox"/>	<input type="checkbox"/>

Comments if any _____

7. Do you typically explicitly advise on any of the following as part of your advice around retirement villages Please select ONE response for each item

	Usually	Sometimes	Never
Insurance cover for dwelling.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Insurance cover for contents.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Process and costs for repairs and maintenance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
What operator chattels are included in the ORA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The ability to terminate residency.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The ability of a Family Trust to purchase a unit.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Whether District Health Board Funds can be accessed for home care or whether care services must be purchased from the operator.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rights or restrictions on the use of amenities such as swimming pools, bowling greens etc.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The price, setting and changing of weekly/monthly fees.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
What services attract additional fees, as distinct from 'core services'.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The package the operator can provide - from retirement village, to serviced apartments, to rest home care, through to hospital or dementia care (where available)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Financial implication of moving from an independent villa to serviced apartments or to a rest home or hospital care.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Housing, service and financial implications of moving to another village owned by the same operator.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Housing, service and financial implications of moving to a village of another operator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Affordability of a village if the intending resident's financial circumstances change	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The financial robustness of a village or its operator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Seeking independent advice on the financial robustness of a village or operator e.g. from a financial adviser, accountant or auditor.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The implications of continued residence or costs if a partner requires care in their unit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ongoing liability for weekly/monthly fees between termination of the occupation right agreement and resale of the unit.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Distribution of capital gain or capital loss on surrender of an ORA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The timeframe for making capital repayment to the client or their estate upon termination of the occupation right agreement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The implications of marital separation on their residence and financial situation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Age-related restriction and marriage to a person outside the eligible age range	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Who can reside with them in their unit, either on a temporary or permanent basis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Whether they can have overnight guests	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Availability and choice of a personal alarm service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Site coverage of a personal alarm over the village complex	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Staffing levels	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Staff skills and qualifications (e.g. presence of a registered nurse)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Whether clients can take pets to a village	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Whether noise issues might affect them, either restricting their own noisy activities or sensitivity to noise from others.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments if any _____

8. How long do you typically spend collecting information about a retirement village and advising a client on retirement villages, resident's liabilities and protections? (Estimate of average hours per client)

9. Do you provide prospective residents with a checklist of issues for them to consider? Please select ONE response that fits best.

<input type="checkbox"/>	Yes - we have developed a checklist to use
<input type="checkbox"/>	Yes - we use a checklist developed by others
<input type="checkbox"/>	No

If yes, please indicate where could we access a copy of any checklist?

10. Have you referred prospective village residents to any specific websites, information sources or other advisers? Please select ONE response that best fits

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No - I focus only on the legal and contractual issues in the Disclosure Statement and Occupation Right Agreement
<input type="checkbox"/>	No - I haven't found any that deal with the diverse circumstances of older clients

11. If you answered yes to Question 10, which websites or information sources do you find most useful?

12. Overall, do you feel you have adequate information to advise an older person or their family about a retirement village? (Please select ONE response that best fits)

<input type="checkbox"/>	Yes, on all necessary matters
<input type="checkbox"/>	On some but not all matters
<input type="checkbox"/>	No

13. What information would support and enhance your ability to advise clients about retirement villages?

14. How would you like to get information, guidance or resources to help you with advising clients about retirement villages? For instance weblinks, paper-based, other resources etc

15. Given your experience working with older clients, how can they be best informed about retirement village choices? Please select ONE response that best fits.

<input type="checkbox"/>	Face-to-face
<input type="checkbox"/>	Hard copy written information
<input type="checkbox"/>	Website/accessible on-line information
<input type="checkbox"/>	Other (please specify) _____

16. Who are best placed to assist older people to decide whether retirement village living will be suitable for them? Select ALL that apply

<input type="checkbox"/>	Lawyers
<input type="checkbox"/>	Accountants
<input type="checkbox"/>	Financial Advisors
<input type="checkbox"/>	Insurers
<input type="checkbox"/>	Family members
<input type="checkbox"/>	Village Operators
<input type="checkbox"/>	Village Managers
<input type="checkbox"/>	Residents in retirement villages
<input type="checkbox"/>	Friends
<input type="checkbox"/>	Consumer organisations
<input type="checkbox"/>	Health providers
<input type="checkbox"/>	Older peoples' groups (e.g. Age Concern, Grey Power)
<input type="checkbox"/>	Other (please specify) _____

17. Which areas of information could be improved for residents? (Select ALL that apply)

<input type="checkbox"/>	Description of the dwelling size
<input type="checkbox"/>	Dwelling prices
<input type="checkbox"/>	Dwelling tenure
<input type="checkbox"/>	Description of dwelling construction and performance standards
<input type="checkbox"/>	Itemised list of amenities in each dwelling - heating, broadband, level entry shower etc
<input type="checkbox"/>	Description of the dwelling size
<input type="checkbox"/>	Itemised list of facilities and services of the village
<input type="checkbox"/>	What is included in the monthly outgoings fee and what is 'pay as you go'
<input type="checkbox"/>	Maintenance provision
<input type="checkbox"/>	Whether residents can get free in-home support from DHB providers or whether support is to be purchased from the village operator
<input type="checkbox"/>	The process to buy into a village and deposit requirements
<input type="checkbox"/>	Key occupation right agreement conditions
<input type="checkbox"/>	Amount of weekly/monthly outgoings
<input type="checkbox"/>	Conditions of use and village rules – such as visitors staying, pets, parking etc.
<input type="checkbox"/>	Staffing levels and skills
<input type="checkbox"/>	Complaints process
<input type="checkbox"/>	Projections of future costs
<input type="checkbox"/>	Matters relating to termination of the occupation right agreement
<input type="checkbox"/>	Other (please specify) _____

18. To what extent are family members involved in your meetings with clients who are considering moving into a retirement village? An estimate of % is fine.

% of clients who would include family in the meeting	% _____
% of clients who would NOT involve family in the meeting	% _____

19. Thinking about clients that have sought advice about entering a retirement village in the last two years, which region(s) have those villages been located in? (tick ALL that apply)

<input type="checkbox"/>	Northland
<input type="checkbox"/>	Auckland
<input type="checkbox"/>	Waikato
<input type="checkbox"/>	Bay of Plenty
<input type="checkbox"/>	Gisborne
<input type="checkbox"/>	Hawkes Bay
<input type="checkbox"/>	Taranaki
<input type="checkbox"/>	Manawatu-Wanganui
<input type="checkbox"/>	Wellington
<input type="checkbox"/>	Marlborough
<input type="checkbox"/>	Nelson
<input type="checkbox"/>	Tasman
<input type="checkbox"/>	Canterbury
<input type="checkbox"/>	West Coast
<input type="checkbox"/>	Otago
<input type="checkbox"/>	Southland

20. In which region is your office located?

21. Do you have any other comments?
