

**Retirement Villages Act 2003
Monitoring Project
Residents' Perspectives**

Executive Summary

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Prepared for the Retirement Commissioner by

**Bev James
Public Policy & Research Ltd**

**Kay Saville-Smith
Centre for Research, Evaluation and Social Assessment**

Executive Summary

Since 2003, retirement villages have been regulated and monitored under the Retirement Villages Act 2003 (the Act). This research is part of the Retirement Commissioner's on-going monitoring of retirement villages as required under Section 36 of the Retirement Villages Act 2003. It is directed at:

- Establishing the understanding retirement village residents have of the Act, regulations, the Code of Practice and Code of Residents' Rights; and,
- Providing an insight into residents' own assessment of the effectiveness of those protections.

The research was designed to be an input in the Retirement Commission's on-going work around retirement villages as well as a resource to retirement villages, their residents and all those who advise and assist older people. It responds to the diversity and increased provision of retirement villages.

The Retirement Village Sector

Retirement villages are typically marketed as a lifestyle choice in which retirees can have independent living in a managed facility. New Zealand's retirement villages range from small facilities with a few units to large complexes. Some retirement villages are also attached to rest homes and high dependency care.

There are around 179 village operators, some of whom operate more than one village. Around 30,000 people live in retirement villages. Overall, there are 330 registered retirement villages. Of those, 266 registered villages are members of the Retirement Villages Association. The RVA is made up of 54 percent corporate, 25 percent independent (for profit) and 21 percent not-for-profit providers.

Around 5 percent of New Zealanders aged 65 years and over live in retirement villages, with the Auckland region having the most villages. Kapiti and Tauranga have 11-14 percent of their older population in retirement villages. The number of retirement village dwellings has

grown rapidly. In 1998 there were around 10,000 retirement village dwellings. Those increased to 17,250 dwellings in 2010. The Retirement Villages Association has forecast that operators will need to build 800-1,200 dwellings annually to meet rising demand as New Zealanders age.

Retirement villages have complex contractual arrangements around rights to occupy and the conditions associated with occupation. These arrangements require that intending residents seek specialist legal and financial advice.

The Research and its Participants

The research used qualitative research techniques – focus groups supplemented by a few interviews – to explore residents’:

- Awareness of and familiarity with the Retirement Villages Act, the Code of Practice, the Code of Residents Rights, the Statutory Supervisor role, complaints and disputes procedures, the Disclosure Statement, their occupation right agreement, and other protections.
- Residents’ access to and use of information and advice about the Act and retirement village living; clarity of information and advice; and residents’ understanding of the implications of information provided.
- Residents’ views about operators’ provision of information and consultation.
- Residents’ views about strengths and weaknesses of the Act and its protections, and aspects that could be improved.

The focus group method is a qualitative method that is used for illuminating and exploring issues and experiences that are not able to be done using other methods such as surveys, observation or one-to-one interviews. Focus groups are not designed to generalise findings to a whole population in a statistically representative way.

Focus groups provide a richness of detail and the opportunity for participants to reflect on their experiences through discussion with others. This process of conversational reflection provides a way in which individuals themselves and researchers can distinguish between what is a common or universal experience and what may be an individualised experience. The group dynamics and interaction contribute insights and

information on the various perspectives and experiences of the group. The focus group may identify differences, disagreements or the degree of consensus on a topic. Drawing out diverse views is a useful way of gaining further insights into the issue being examined.

The research involved 23 focus groups held in five regions throughout New Zealand with 293 participants. The focus group participants covered the full range of ages of retirement village residents. Overall, 53.3 percent were aged between 75 and 84 years. Just under 30 percent were aged under 75 years. Almost 18 percent were aged 85 or more. Around 58 percent of participants moved to their village prior to 2007, with 8.9 percent having moved to their village within the last 12 months. Most have a licence to occupy, but a significant minority have unit title.

Around 59 villages participated in the focus groups. Fifteen villages hosted focus groups and residents from around 44 villages participated in eight cross-village focus groups. Participants were almost equally divided between those from trust or not-for profit villages and corporate group villages. Residents from independently operated villages also participated. Almost one third of participants were from large villages (85 or more units). A fifth of participants were from medium sized villages (between 35-84 units), while a lower proportion were from small villages (1-34 units). Over half of participants live in villages with a rest home located in the same complex.

Residents' Key Issues, Perspectives and Suggestions

Overall, many residents are aware that they have statutory protections under legislation, although there appears to be a group that is unaware of the Retirement Villages Act. There is also considerable diversity as to residents' knowledge of the particular mechanisms; processes and responses that the Act requires to ensure those protections are implemented.

Despite that diversity, there were residents across all focus groups who identified the following aspects of their entry into and subsequent life in a retirement village as compromising the conditions they believe they purchased. The following points summarise those concerns that residents commented on repeatedly across the focus groups:

- Fee increases beyond agreed constraints (usually the Consumer Price Index).
- Reductions in the range of services and amenities covered by the fees and subsequent application of additional charges to those fees.
- Reductions in the quality of amenity through: reduced maintenance or under-investment in repairs; lack of clarity around refurbishment; and, previously undisclosed changes in the built environment such as the addition of higher dependency care facilities, or the addition of new units and/or apartments that impact on communal space or individual units' exposure to noise, sun or light.
- Failure to provide amenities indicated in staged development plans.
- Sale of occupation rights being inappropriately managed.
- Changes in operation, management and ownership without consultation.
- Anxieties exacerbated by perceived lack of financial transparency and the diversity of contracts within villages.

Residents repeatedly noted that some problems arose because they had not appreciated the meaning and implications of their contracts. Focus group participants made a wide range of suggestions for improving the efficacy of the Act:

- Easily understood information presented in large font.
- Reduce the financial burden and uncertainty for residents by: ceasing service fees on contract termination; capping service fees; clarifying charges including the allocation of compliance costs.
- Clarify and make independent the Statutory Supervisor's role.
- Overhaul and improve the disputes process.
- Establish mechanisms for resident representation and decision-making including establishing a residents' advocate.
- Rationalise administration of the Act and review it with resident input.
- Establish a mechanism for regular auditing of operators' compliance with the Act, the Code of Practice and the Code of Residents' Rights.

Conclusions and Recommendations

The residents participating in the focus groups concurred that they have come to retirement villages to ensure that their future is secured. Most participants would not change their decision to take up residence in a retirement village. They commented that making a decision to live in a retirement village was the right decision for them, but they do worry about the future of their village and their situation in it. It is clear that residents' confidence and comfort can be compromised by deficiencies around the processes by which they came into a village or in the subsequent operation of villages. For many residents, this is exacerbated by a sense of disappointed expectations to a greater or lesser degree. Although there is considerable variation in the degree of satisfaction expressed by residents in the focus groups about their particular retirement village, even those most satisfied with their village expressed some anxiety that the future may not be as certain or secured as they had hoped.

Although this research has not been evaluative in nature, it does suggest that residents' ability to safeguard their future within retirement villages and the effectiveness of the Act's protections could be improved. Broadly, three areas require consideration:

- There are some aspects of the Act itself which are problematic.
- Many of the difficulties that arise for residents and village operators reflect poor implementation of the Act.
- The Act relies on consumer knowledge and access to information in order that consumers can exercise their rights. However, there is inadequate support for people making decisions about whether to enter retirement villages, as well as a lack of support and advice for residents already living in retirement villages.

These aspects are summarised below.

Problems with the Act	Problems with Act Implementation	Problems with Consumer Support
<ul style="list-style-type: none"> • Role of the Statutory Supervisor and commissioning and specification of services. • Requirements around complaints and disputes procedures. • Misalignments between the Act and other legislative provisions related to tenure. • Lack of a clear administrative, audit and regulatory role in relation to retirement villages. 	<ul style="list-style-type: none"> • Failure to implement key requirements in the Act including maintenance plans, fees and charges, provision of information, consultation processes and village complaints processes. • Lack of detail and specificity in key documents and confusing repetition. • Poor specification and lack of clarity around fees and charges. 	<ul style="list-style-type: none"> • Advice provided by lawyers and financial advisers is too narrow and fails to provide appreciation of implications. • Lack of awareness and confusion about key aspects of occupancy, conditions and options. • Unmet need for independent decision-making support for prospective and existing residents.

There may be merit in reviewing and reforming the legislation around retirement villages. We have already noted some aspects of the current legislation that appear to be fundamentally problematic. However, in most cases there is nothing to prevent the industry from developing with residents best practices that will address some of those problems as well as address the deficiencies around consumer support and implementation of statutory requirements.

We would recommend that attention is given to the following priorities:

- Promulgating templates for the key documents that:
 - Rationalise the content in each relative to the others.
 - Provide examples of the level of specificity required in relation to various terms and conditions.

- Developing and implementing guidelines for consultation for both operators and residents.
- Retirement villages being independently rated and being required to make public their rating on financial, service, amenity and procedural performance.
- Rationalising the scope of the Statutory Supervisor role and amending the appointment and commissioning of those services.
- Establishing a service to provide independent advice accessible to residents and counselling for people entering retirement villages including information about accessing community-based legal services and legal aid.
- Developing with residents an industry standard and best practice for complaints, mediation and disputes procedures which includes:
 - Make recording all complaints compulsory.
 - Instituting a formal mediation based approach to dispute resolution prior to the activation of the current disputes procedures.

- Reviewing the interface between the Act and other tenure legislation to provide guidance on the conditions pertaining to tenants and those in unit title tenures.