



**TE ARA
AHUNGA ORA**
Retirement Commission



Retirement Villages Stakeholders Forum

3 August 2022



RV Stakeholders Forum: Overview of the day

- 9:00 Opening address: Hon Dr Megan Woods, Minister of Housing
- 9:30 Welcome from the Retirement Commissioner Jane Wrightson
- 10:00 Moving into the village: Investigation into the feasibility of a standardised ORA (presentation & panel discussion)
- *11:00 Morning Tea*
- 11:30 Living in the village: RV complaints and disputes resolution (presentations & discussion)
- *12:30 Lunch*
- 13:30 Presentation from the RVR
- 14:00 Presentation from the RVA
- *14:30 Afternoon tea*
- 15:00 Moving on from the village: Interface of RVs and care: disclosures (panel discussion)
- 16:00 Overview of the legislative review process
- 16:30 Closing & thanks



Opening address:

**Hon Dr Megan Woods, Minister of
Housing**



Welcome from the Retirement Commissioner Jane Wrightson



Moving into the village:

Investigation into the feasibility of a standardised Occupation Right Agreement (ORA)



Investigation into the feasibility of a standardised Occupation Right Agreement (ORA)

Sara Jones

Independent consultant to Te Ara Ahunga Ora Retirement Commission





**TE ARA
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Retirement Commission

Retirement Villages Annual Investigation Report 2021-22

Presentation of the Report by Sara Jones



Report investigated...

Feasibility of introducing a standardised Occupation Right Agreement

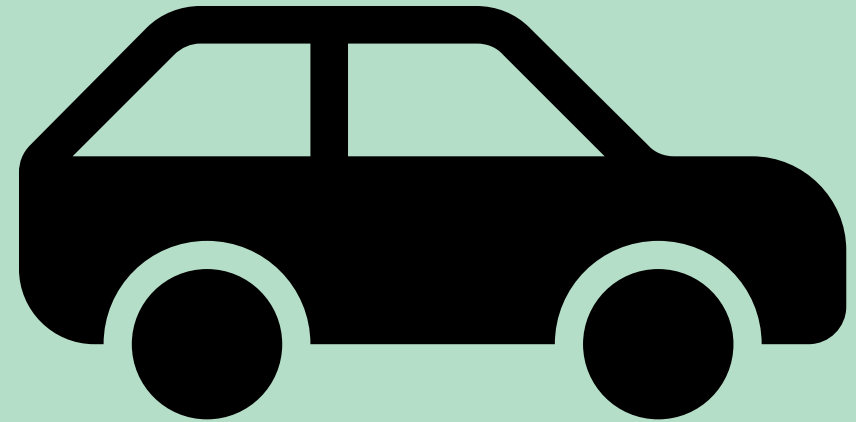


Duplication of information in a Disclosure Statement and Occupation Right Agreement



Roadmap

- What is the problem and why do we care?
- Why feasible to draft a standardised ORA (except costs!)
- Are there alternatives to a standardised ORA?
- Duplication of information across Disclosure Statement and ORA and implications



What is the
problem?

Why do we
care?













Lengthy and dense legal language

- Average length 35 pages
- Use of different terminology for LTO model
- Use of legalistic language
- Different layouts and some difficult formats

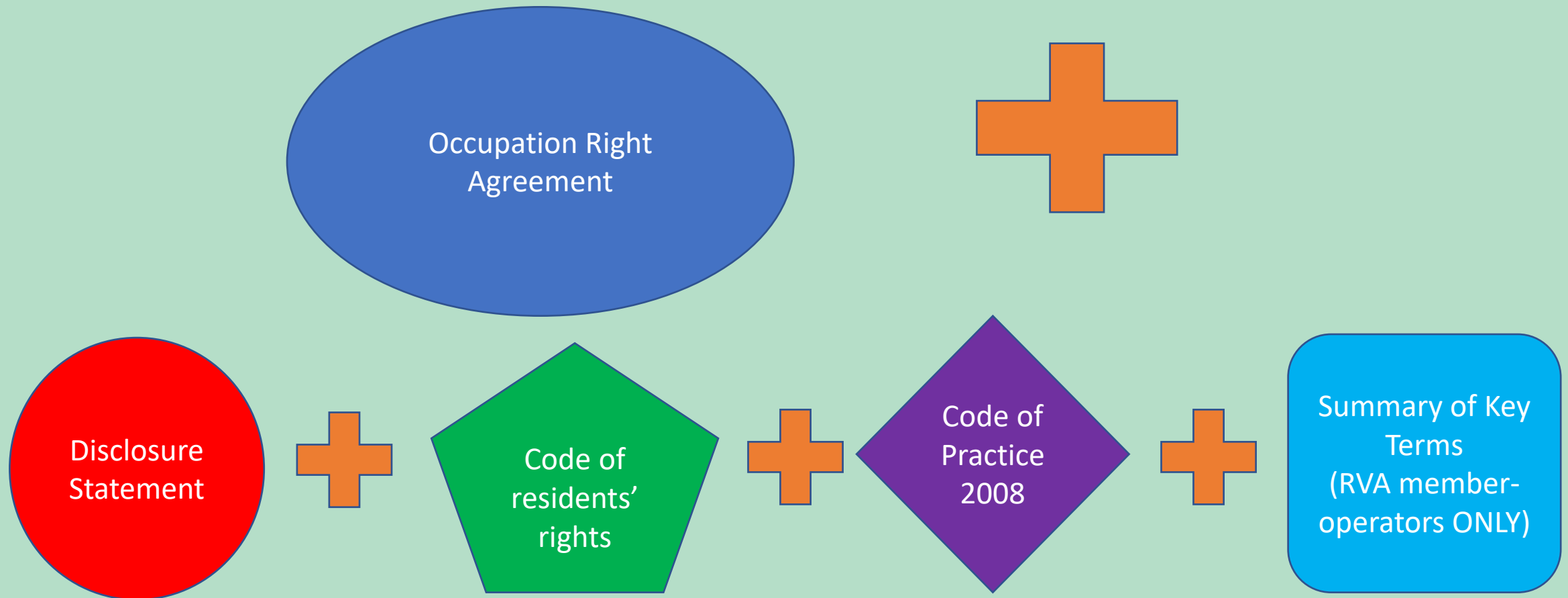


Financial implications

Key financial terms hard to spot amongst mass of terms



Other documentation



All adds up to....



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Why should we care?

- Consumer focused industry
- Respect for older New Zealanders
- Good law making



Any solution should promote clarity



Standardised ORA

Features

- ✓ Plain language
- ✓ In a standard-form for use by all operators
- ✓ Allowance for an operator's unique terms



ORAs of 7 retirement villages compared



Terms can standardise

- ✓ Terms where subject and substance set out in legislation
- ✓ Terms with minimum requirements set out in legislation
- ✓ LTO model and payment types
- ✓ Language, font, layout and headings
- ✓ Form allows for insertion of an operator's unique terms



Stakeholder feedback standardised ORA



Benefits?

Drawbacks?

Terms should
not be
standardised?

Terms easily
standardised?

Terms should be
standardised?



Benefits of standardised ORA



- ✓ **Easier** to read and understand
- ✓ Commercial terms **more visible**
- ✓ **Enhance** negotiating power of residents
- ✓ **Assist** lawyers advising residents
- ✓ **Lower** residents' legal costs
- ✓ **Decrease** costs for new operators entering market
- ✓ **Easier** to compare terms across villages



Drawbacks of standardised ORA

- **Stifle** creation of innovative offerings
- **Difficult** to amend terms at pace
- Operators **lose** ability to have own document that reflects their position in the market
- Create “**disjointed**” contract
- **Costs** to industry and regulators
- **Threat** to right to obtain legal advice



Terms easily standardised

- ✓ Terms prescribed in legislation that impose a discrete obligation on an operator or resident
- ✓ The look and feel of the document



Other terms could easily standardise

Stakeholders with resident or consumer focus

- ✓ Grant of occupation right
- ✓ Termination rights
- ✓ Repair and maintenance
- ✓ Dispute resolution
- ✓ Explanation of the ORA
- ✓ Terminology for LTO model and payment provisions

Stakeholders with operator focus

- No further terms



Terms that *should not* be standardised

All stakeholders

- Any provision that is unique to a village or offering
- Commercial or financial terms



Stakeholders with an operator focus

- Majority of terms cannot be standardised
 - Transfer terms
 - Accounts
 - Maintenance and upgrading
 - Complaints
 - Details of parties
 - Payment terms
 - Resident obligations
 - Termination provisions



Australian RV industry – standard contract



New South Wales

- Fully prescribed form
- Clarified financial terms
- Improvements required

Victoria

- Partially prescribed form
- Review currently underway



Alternatives to a standardised ORA



- ✓ Standardised “Summary of Key Terms”
- ✓ Review of legislative framework
- ✓ Guide for drafting good ORAs
- ✓ Continuing education of lawyers who advise residents



Recap

- Feasible to draft and introduce by regulation a standardised ORA
- With exception of costs to industry and government, benefits outweigh drawbacks
- Need to consider costs and alternative solutions
- Look to Australian experience
- Combine any introduction with full review of legislation



**KEEP
CALM
AND
LET'S
RECAP**



Duplication

Information in
Disclosure Statement
AND
Terms of an ORA

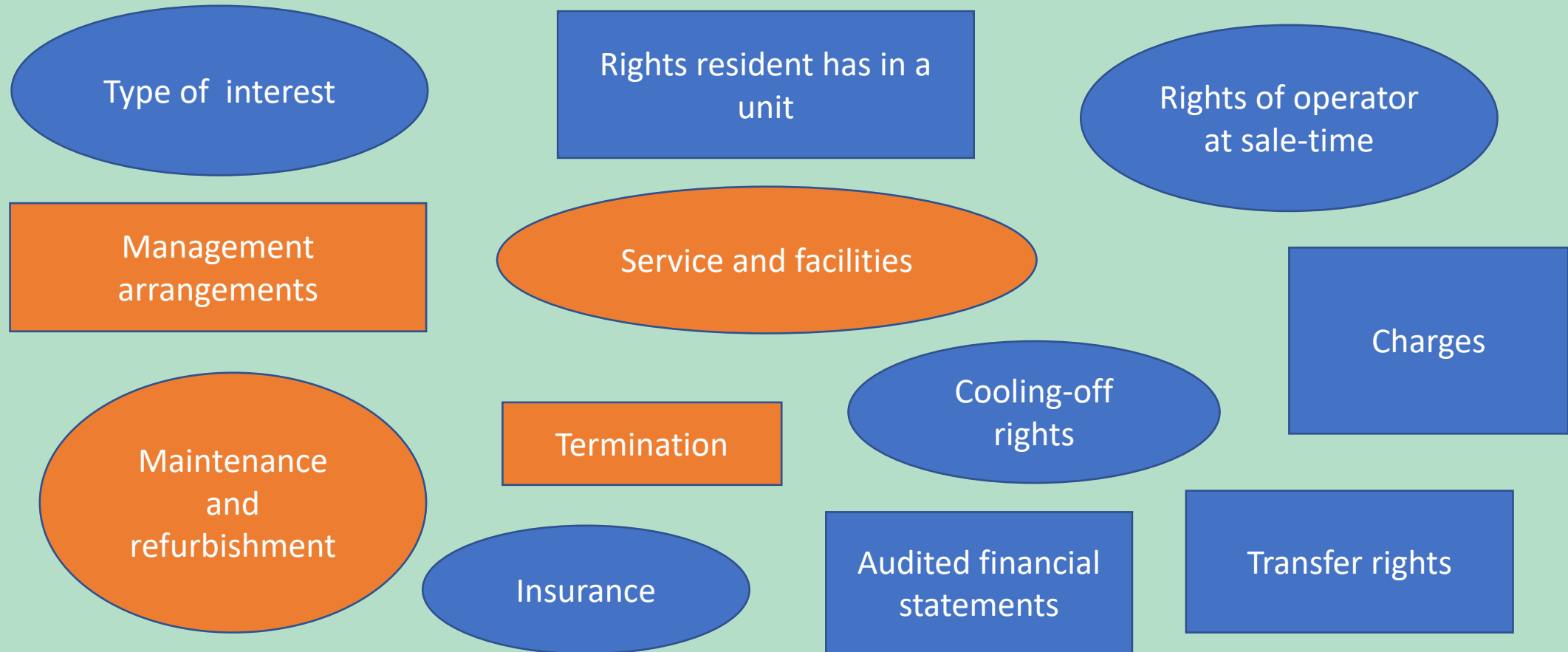


Disclosure Statement

- ✓ Information prescribed by legislation
- ✓ User-friendly format and style
- ✓ Like ORA, sets out terms of offer
- ✓ Unlike ORA, **not** a contract



Same type of information provided



Stakeholder feedback duplication question



Implications

If a problem,
solution?



Implications

Stakeholders with resident focus

- Information overload
- Confusion if inconsistencies
- Disclosure statement still useful

Stakeholders with operator focus

- Different purposes
- Repetition gets message across



If a problem, solution?

- Re-think disclosure process
- Legislative review
- Work on the ground



Duplication

- There is duplication over many subject areas
- However, different purposes
- Information overload
- Let's re-look at as part of the legislative review



Panel discussion

Michelle Burke, Partner, Anthony
Harper Lawyers

Kristine King, Director, DK Law

John Greenwood, Consultant,
Greenwood Roche



Drawbacks of standardised ORA

Panel to provide their comments on the following drawbacks:

- Potential to create a “disjointed contract”
- Stifle innovative offerings
- Costs involved

Report sets out drawbacks of introducing a standardised ORA.



Alternative solutions

Panel to comment on the alternative options:

- Summary of key terms
- Review of legislative framework
- Guide to drafting a good ORA
- Continuing education of lawyers

Report considers other options as an alternative to a standardised ORA



Duplication

Panel to comment on some options for simplifying the pre-contract disclosure process:

- TCA recommended adapting the Managed Investment Scheme for RV context
- Replace with summary of key terms and attach to ORA
- Review of legislation to decrease duplication

Report recommends a review of the legislative framework with the aim of simplifying the pre-contract disclosure process for the RV industry



To the Panel....



Your questions & comments



Living in the village

RV Complaints and disputes resolution system



Retirement Villages Complaints and Disputes: an assessment

Tristan Fluerty, Retirement Villages Specialist, Te Ara Ahunga Ora Retirement Commission



Retirement Villages Complaints and Disputes: an assessment



Purpose of this session

Highlights from Retirement Villages:
Complaints and Disputes: an
assessment report prepared by Sara
Jones for TAAO

Examples of alternative complaints
and disputes schemes

- An industry disputes resolution process
- A commissioner-based complaints system with advocacy

What does a good complaints and
disputes system look like for the
Retirement Villages sector?



What we have heard from stakeholders about the complaints and disputes system

- Concerns
 - Complicated and confusing
 - Intimidating
 - Takes too long
 - Lack of independence
 - Power imbalances
 - No advocacy for residents
- Solutions?
 - Generally most stakeholders supportive of a simpler complaints system
 - General stakeholder support for an independent Ombudsman/ Disputes resolution scheme/agency (concerns from operators that it would need to be shown that this provided sufficient benefit to outweigh the costs)




INFORMAL CONTACT

FORMAL COMPLAINTS FACILITY PROCEDURE

DISPUTE PANEL

INFORMAL CONTACT TO OPERATOR



Issue or concern

May lead to any of:

RESIDENTS' COMMITTEE REQUEST MEETING

- Operator
- Statutory Supervisor

GENERAL CONSULTATION DECISION - MAKING


AGM / SGM

CONTACTING STATUTORY SUPERVISOR

- Allege breach of rights
- Informal discussion

Resident dissatisfied


1 FORMAL COMPLAINT TO OPERATOR



Resident may file complaint formally in first instance

If unresolved 20 working days from filing

2 STATUTORY SUPERVISOR



Recommends way forward

If unresolved after 20 working days or referral to SS not possible

3 MEDIATION




Operator v Resident:
Operator pays

Resident v Resident:
Equal share of costs with operator

If unresolved or if resident does not agree to mediation

4 DISPUTE PANEL



Resident may issue dispute notice

Resident may issue dispute notice after 20 working days and within 6 months of filing formal complaint.

COMPLAINT POLICY

Alerts resident to procedures and options

RESIDENT MAY REFER

To RV Registrar / Retirement Commissioner / any other person

Initiatives to improve the current scheme

RVA

- Retirement Village Early Resolution Scheme (Fairway Trial)
- Contracted by the Retirement Villages Association of New Zealand (RVA)
- 10 Auckland retirement villages (2,100 people)
- People coming with a problem and leaving with a plan (conflict coaching)
- Works within the current complaints and disputes scheme
- Slow uptake
- Some users don't understand purpose of service



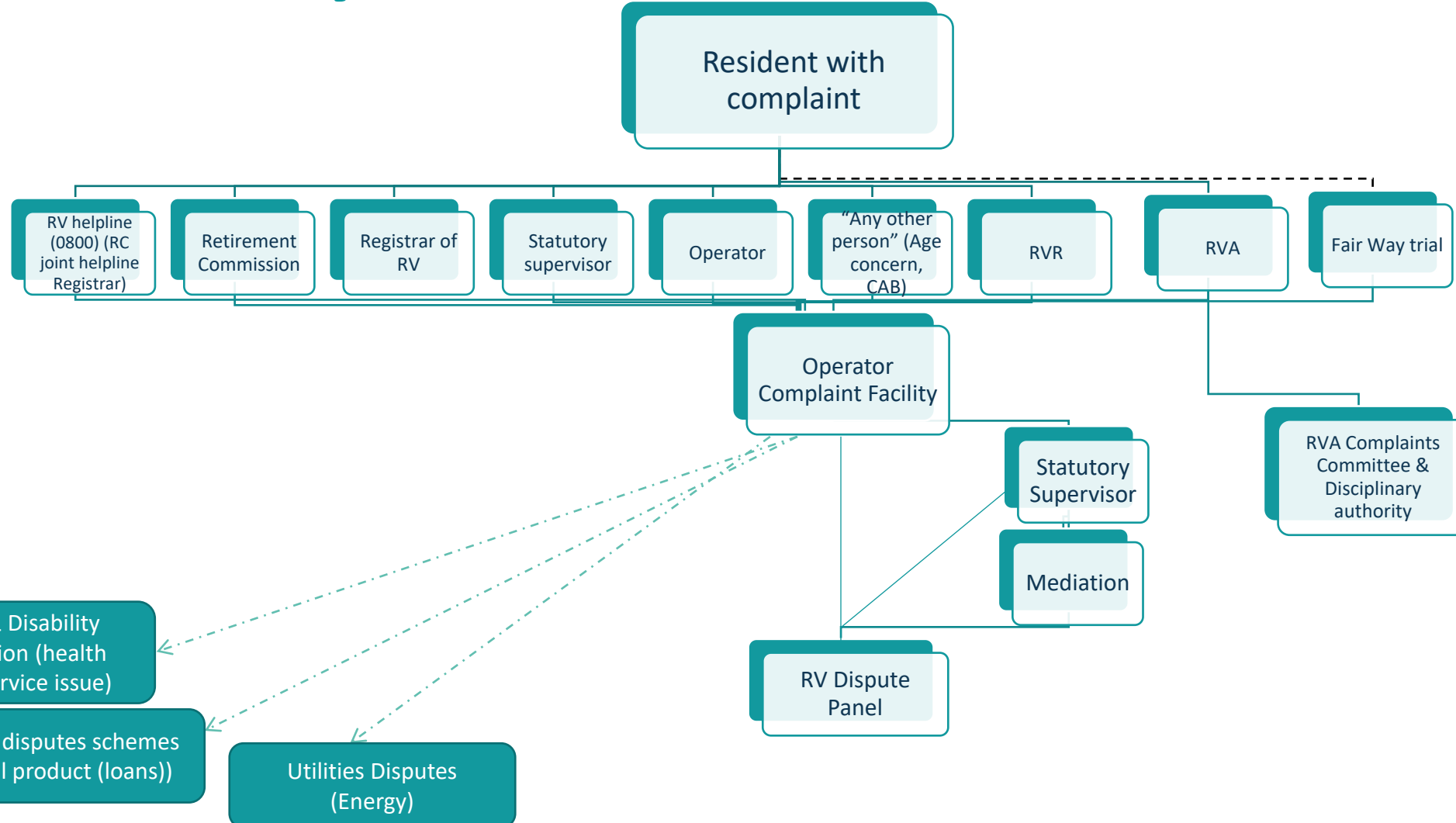
Initiatives to improve the current scheme

RVR

- Web-based formal complaints web form assists residents to fill out and send a formal complaint to their operator
- 0800 Confidential Support Line currently being trialed with RVR members
- Survey of RVR members on their personal experiences of making a complaint under current scheme



Current situation – who do residents contact when they have a complaint?



The suggested way forward



Consider an Ombudsman/industry type dispute resolution scheme

All proposed schemes are assessed against the GCDR Best Practice Guidance on Dispute Resolution



Introduce an effective advocacy service for residents



What do we mean by an Ombudsman/industry specific dispute resolution scheme?

Industry-specific dispute resolution schemes deal with complaints and disputes between consumers and a particular industry.

- Schemes are usually provided free to consumers and funded by the industry but governed by an equal number of industry and consumer representatives
- Some schemes are required to meet standards established in legislation
- Generally an end-to-end process is offered with a single entry point.
- If the industry member and consumer do not reach agreement, most schemes have the power to make a determination (binding on industry, but not consumer - pursue legal remedies if they are unsatisfied)
- Depending on the scheme, the power to make the determination lies with an Ombudsman, Commissioner, panel or referee



What would an advocate do?

Advocate, where referring to an individual participating in a dispute resolution process, means a person representing or acting on behalf of a party to a dispute. An advocate may or may not be legally qualified (glossary of dispute resolution terms MBIE)

- An advocate's primary role is to:
 - advise a complainant of their rights
 - answer their questions and talk them through their options for making a complaint
 - support them through the process of making a complaint



Practical examples

Financial Services Complaints Limited (FSCL) dispute resolution system: an example of an industry disputes resolution process

Health & Disability Commission complaints process and advocacy service: an example of a Commissioner based complaints system with advocacy



FSCCL: an example of an industry disputes resolution process

Stephanie Newton, Case Management Team Leader, FSCCL





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COMPLAINTS LTD

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PUNA MANAAKI

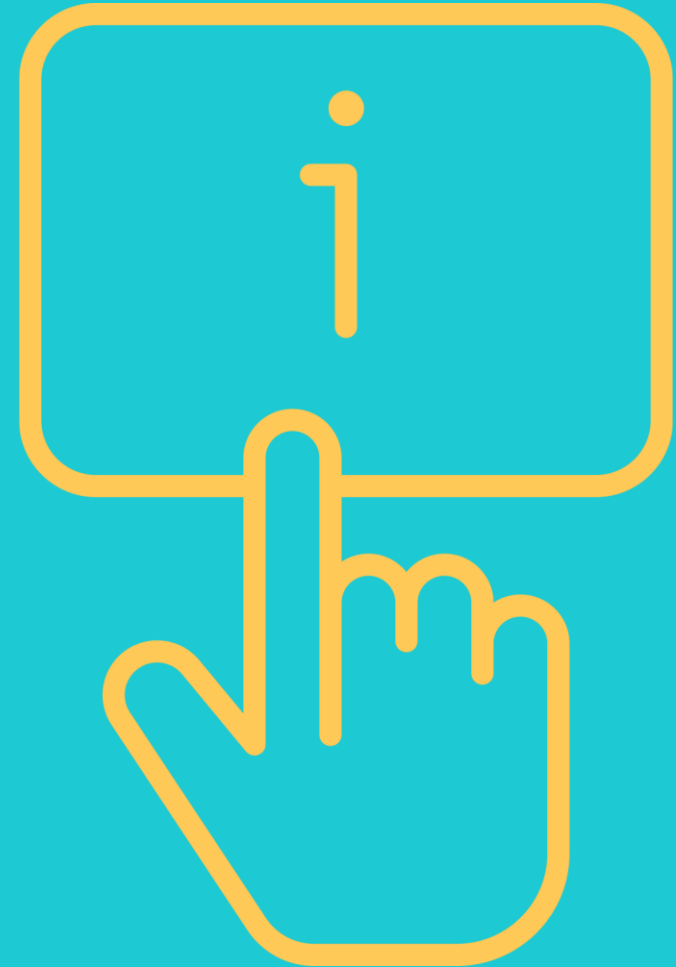
DISPUTE RESOLUTION IN THE CONTEXT OF FINANCIAL SERVICE PROVIDERS

3 AUGUST 2022

MERYN GATES | *Case Manager*

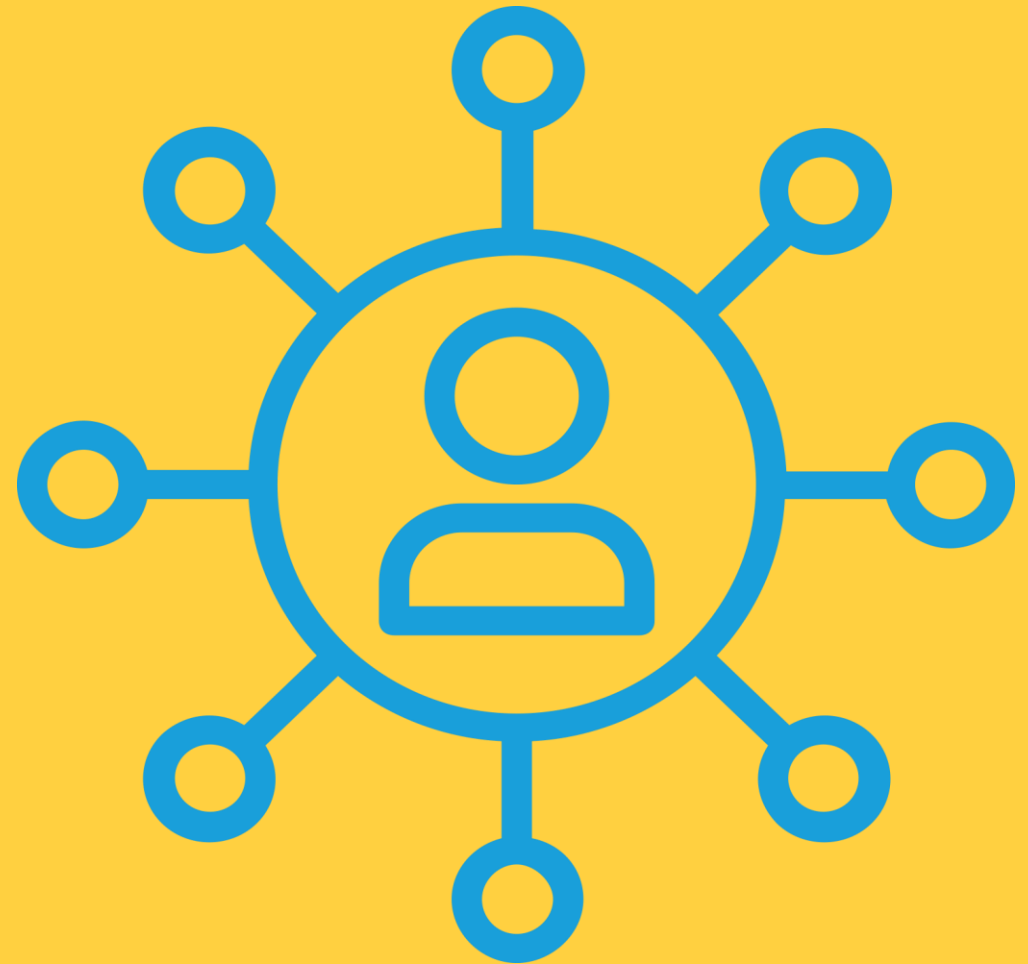
OVERVIEW OF FINANCIAL DISPUTE RESOLUTION IN NEW ZEALAND

- › 1990s - Banking Ombudsman and Insurance and Savings Ombudsman
- › 2008 - Financial Service Provider (Registration and Dispute Resolution) Act
- › 2010 – Financial Services Complaints Limited



WE PROVIDE A SERVICE THAT IS:

- › accessible
 - › independent
 - › fair
 - › accountable
 - › efficient
 - › effective
- and free for the consumer



OUR PROCESS IS FREE FOR THE CONSUMER



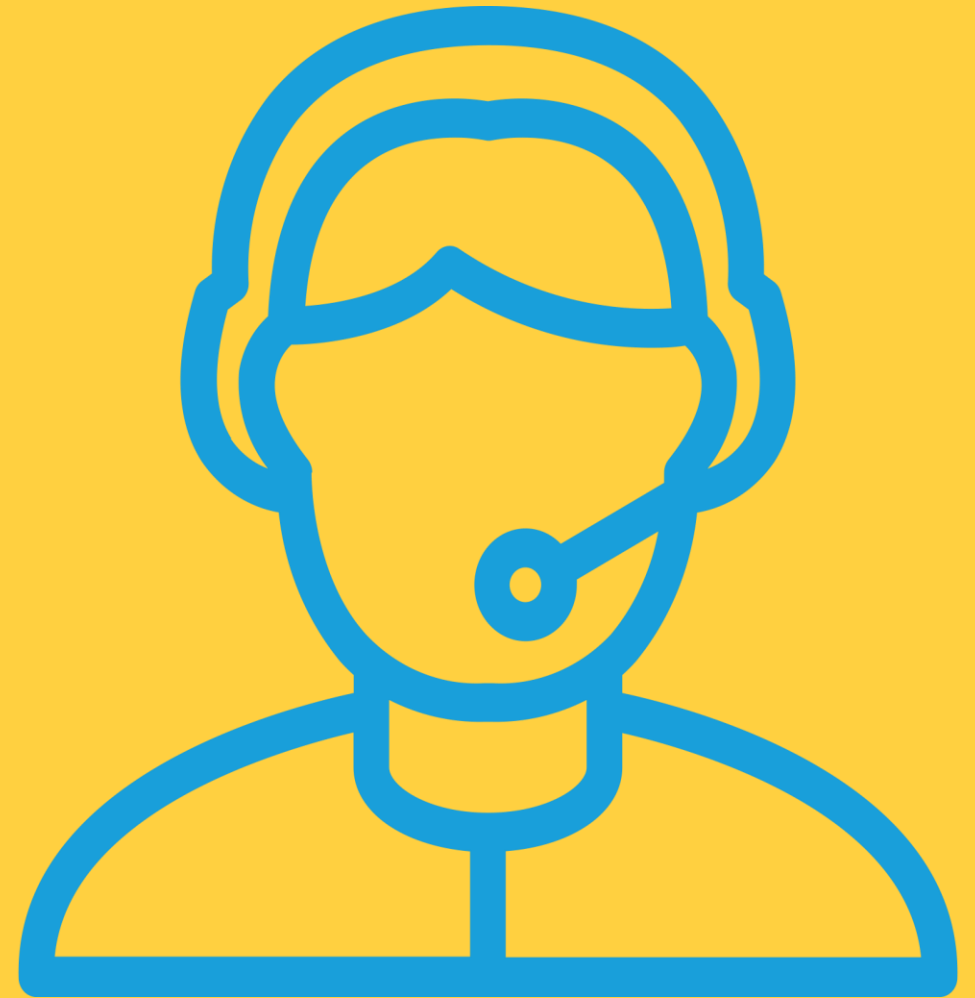
OUR COMPLAINTS PROCESS

- › financial service provider has the opportunity to resolve the complaint themselves
- › unresolved complaints referred back to FSCL



OUR EARLY ASSISTANCE PROCESS

- › refers the complainant to the participant's internal complaint process
- › gives the participant the opportunity to resolve the complaint for free



WE BEGIN OUR INVESTIGATION IF:

- › 20 or 40 working days have passed
- › the participant decides the complaint is deadlocked
- › the complainant does not accept the participant's final response



DURING OUR INVESTIGATION, WE WILL:

- › confirm the complaint falls within our rules
- › talk to the parties
- › investigate
- › negotiate between the parties
- › decide a resolution





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**THANK YOU FOR LISTENING,
ANY QUESTIONS?**

For more information visit www.fscl.org.nz

HDC: an example of a Commissioner based complaints system with advocacy

Rose Wall, Deputy Commissioner, HDC





Health and Disability Commissioner
Te Toihau Hauora, Hauātau

An Overview of the Complaints Process of the HDC

What does a good complaints systems look like?

Presentation to Retirement Villages Stakeholders Forum

3 August 2022



The Role of HDC



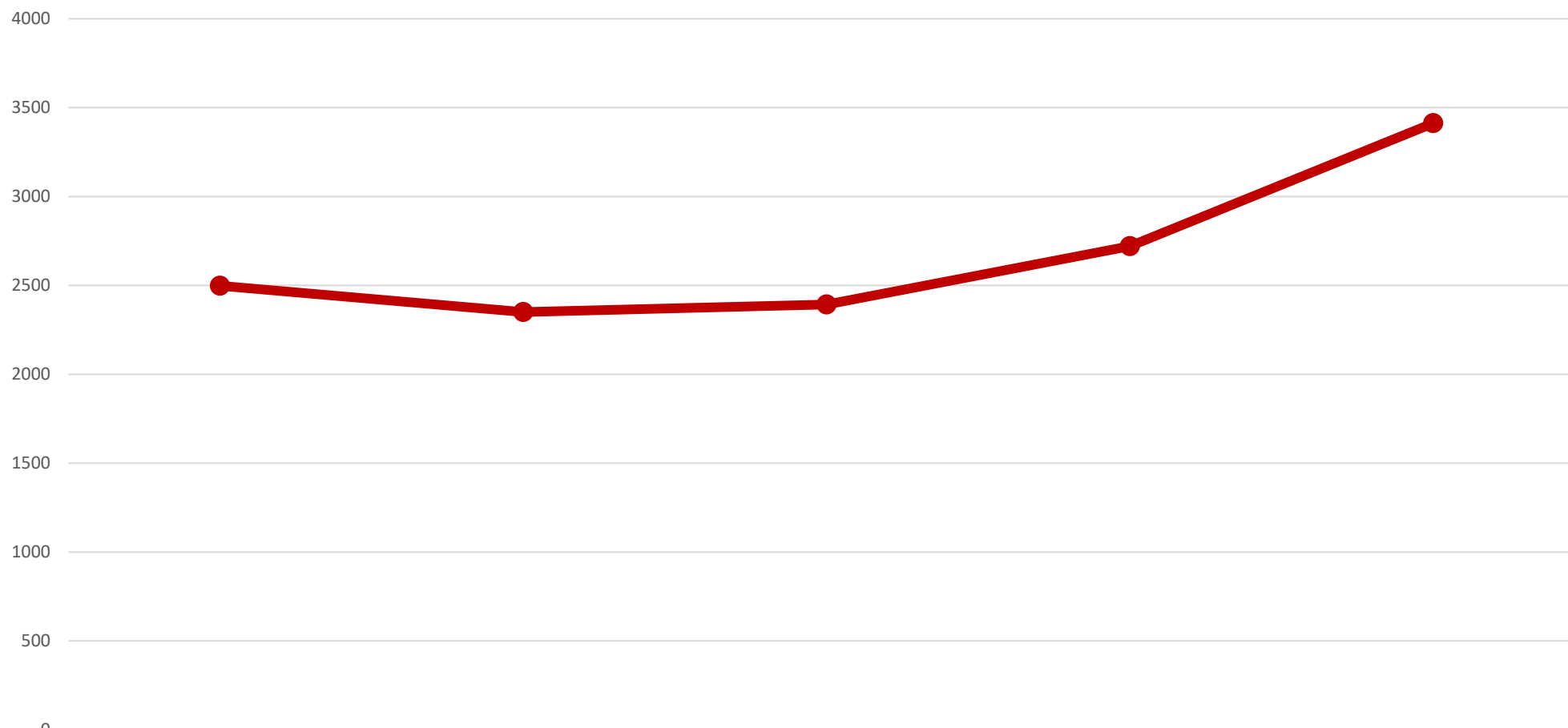
Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

- Health sector watchdog
- HDC promotes and protects the rights of health and disability services consumers through:
 - resolution of complaints;
 - promoting the Code through publicity and education;
 - contributing to health quality and safety;
 - where appropriate holding providers to account

Complaints received each year



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga



	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022
Received	2498	2350	2393	2721	3413



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Responding to complaints and the value of early resolution

Why complain?

People complain to:

- receive information/explanation
- receive an apology
- be taken seriously
- improve care quality
- ensure accountability

Consumers are most satisfied when these resolution outcomes are met directly at the point of service



The value of complaints

- Complaints represent the consumer's experience
- Often reflect the issues they care most about
- Complaints are an opportunity to learn
- They can influence positive change for both providers and consumers



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Barriers to complaints: What consumers tell us

Barriers to making complaints:

- Fear of repercussions
- Cultural and generational barriers
- Not being believed/pathologised
- Lack of trust
- Knowledge of rights

Barriers to complaint management:

- Delays
- Did not feel heard
- All concerns not addressed
- Lack of preventative action

The Advocacy Service

They can assist to:

- Manage expectations
- Distil the issues
- Identify resolution options
- Assists in equity issues



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga



Free support to
resolve your concerns
about a Health or
Disability Service

TO TALK THROUGH YOUR OPTIONS
CONTACT AN ADVOCATE:

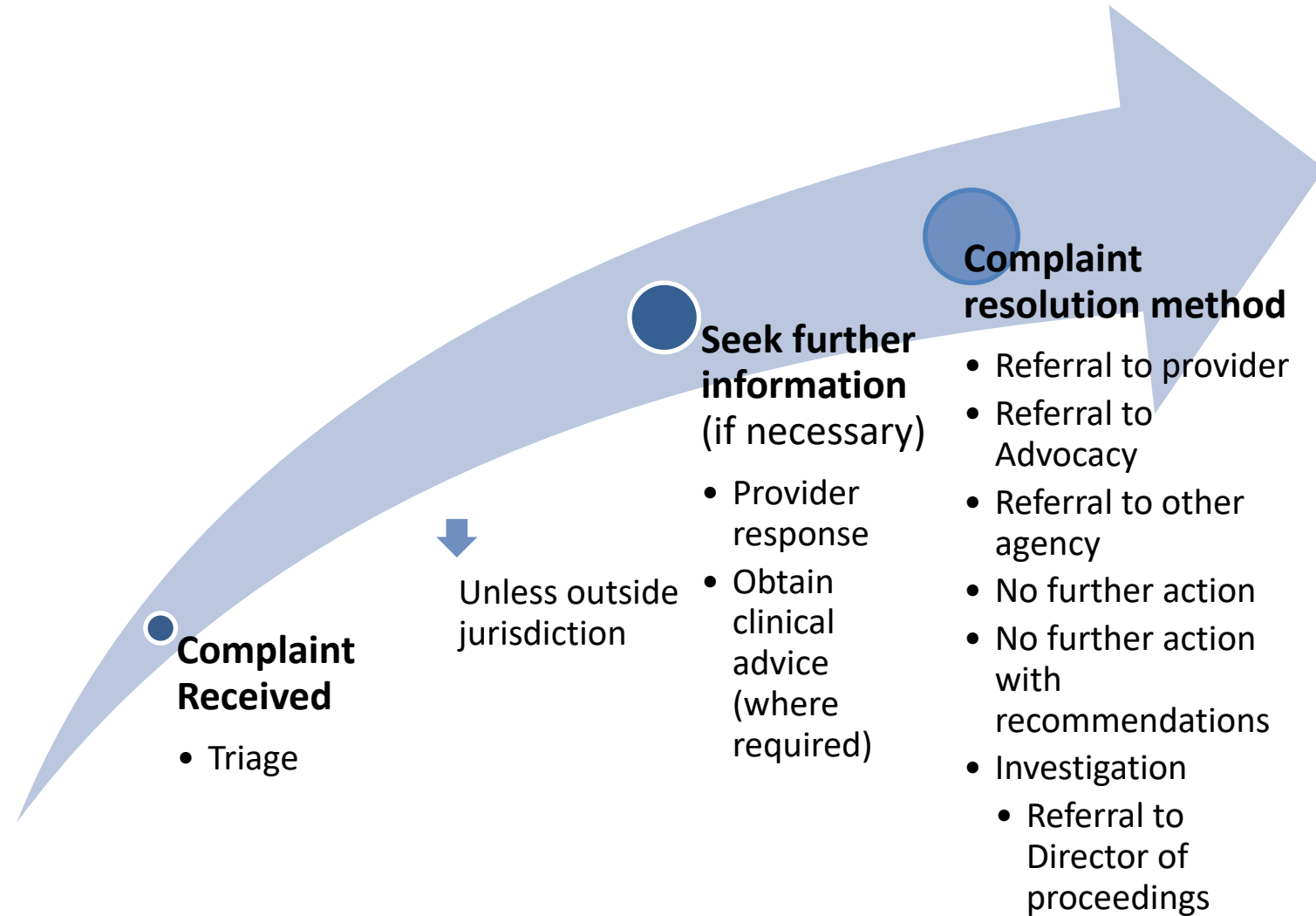
Freephone 0800 555 050

Email: advocacy@advocacy.org.nz
www.advocacy.org.nz

HDC's Complaint Process



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga



Early resolution

Up to **one third** of complaints are quickly resolved with the provider, sometimes with the help of the Advocacy Service (referral to Advocacy or to the provider – lower level complaints/ongoing relationship/acute need).

Early resolution in this manner has the potential to meet the needs of both providers and consumers. It improves the efficacy of quality/safety measures.

When *should* HDC investigate?

- Accepts that the initial or ‘preliminary’ assessment would entail *some* information gathering and analysis
- However, where extensive inquiries are needed, this would undermine the ‘quickness’ of the preliminary assessment envisaged by the HDC Act. Thus this level of inquiry (extensive) would commonly be conducted as a formal investigation (s 40)
- *“There was no indication that Parliament intended [preliminary assessments] to restrict the investigation of complaints to only a minority of the **most serious** of matters”*



Questions



Discussion:

What does a good complaints and disputes system look like for the Retirement Villages sector?



Aotearoa best practice dispute resolution framework: 5 Principles & 9 Standards



Presentation from the RVR

Nigel Matthews, CE, RVR



Retirement Villages Stakeholders Forum | 2022

Presentation by the
Retirement Village Residents Association of New Zealand

Fairness + Consumer Protection

Fairness in the Industry

When Retirement Village residents and intending residents as consumers enter into an Occupation Right Agreement (ORA) they need to be able to rely on the legislation to **protect them** and ensure that they will be **treated fairly**.

Unfortunately;

- Many ORAs contain unfair provisions sanctioned by the Code of Practice
- That Code was based primarily on input from Operators.
- In many respects the Code defeats the original purpose of the Act.

Most of the current 48,000+ residents are aged 80+ years and vulnerable.

Consumer Protection or Not?

Some see the Retirement Villages legislation simply as a ‘regulatory framework’.

A recent Regulatory Impact Assessment on the Residential Tenancies Act stated that the Act;
“...no longer provides a level of protection that remains proportionate to the changing composition of the market.”

Section 3 of the Retirement Villages Act 2003 states that the primary purpose of the Act is;

- ***to protect the interests of residents and intending residents of retirement villages:***
and then later states it is there;
- ***to provide an environment of security and protection of rights for residents of retirement villages:***

What give Residents a glimmer of hope...

- The Residential Tenancies Act (RTA) was completed in 2020 and took a period of 2 years.
- Many of the issues that faced the RTA of the day also face the Retirement Villages Act now, specifically;
 - a. Security, tenure and peace of mind of the resident
 - b. A robust complaints process
 - c. Adequate protections for a vulnerable sector
- A Regulatory Impact Assessment on the RTA was conducted titled; **“Improving Fairness in the Act”**. It looked at the criteria of;

Effectiveness, Efficiency, Certainty, Proportionality, Flexibility and Fairness.

These appear to map nicely across to the Retirement Village sector with one difference - the main demographic in this sector is aged 81, female and single/widowed. So, if it was important to change the RTA... **it is vitally important to change the Retirement Villages Act.**

Comparing Residential Tenancies to ORA's.

In the RVResidents Feb 2021 WhitePaper Submission we compared seniors in rental units to those in ORA units. We referred to Occupation Right Agreements as being a hybrid model between rentals and unit titles. A similar spreadsheet table was included as part of our submission.

The reality is that ORA's follow more of a rental model than anything else, and yet in virtually all cases the person in the ORA is less protected and financially worse off than those renting.

Items	Rental	ORA
Capital outlay	Bond \$1500 - \$5000	\$300k - \$3.5mill+
Guaranteed timeframe for return of capital	23 working days	None
\$ Amount returned	100%	Only 70%-80%
\$ Amount forfeited by tenant / resident	\$0	\$100k - \$1million
Resident responsible for fixtures and fittings upkeep	No	Yes
Protected by legislated minimum heating standards	Yes	No
Able to set resale price	N/A	No
Continues to accrue / pay weekly fee after exit	No	Yes
Can borrow money against property, if needed	N/A	No
Weekly fee can be increased during contract term	No	Yes
Average age of person in property	Estimate 40 yrs	80.5 yrs
Legislated against complaining about resale process	N/A	Yes
% share of Capital gain	N/A	Normally 0%
% share of Capital loss	None	Upto 100%

1. Maintenance and Chattels



RENTAL TENANTS are NOT responsible for the upkeep or maintenance of the chattels.

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RENTAL TENANTS are NOT responsible for the upkeep or maintenance of the chattels.



Most VILLAGE RESIDENTS are responsible for the upkeep or maintenance of the chattels. eg. Residents being charged \$600+ to repair a 10 year old dishwasher rather than the operator replacing it.

2. Minimum Heating / Insulation Standards



RENTAL TENANTS are protected by the new minimum heating and insulation standards.

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RENTAL TENANTS are protected by the new minimum heating and insulation standards.



No protection for VILLAGE RESIDENTS. Some are living in village units where the curtains grow mould and the unit would utterly fail the heating and insulation standards required to be a rental property.

3. Age of Entry



RENTAL TENANTS cover all ages.

3. Age of Entry



RENTAL TENANTS cover all ages.



Most VILLAGE RESIDENTS are elderly and vulnerable. As villages continue to lift the minimum age we're seeing an older demographic moving in, many with walking frame in hand. However, when they decide they want to move out or a health issue occurs - they're told they are "independent living" and need to either 'fend for themselves' or look at care options which will most likely require capital payment up front. The residents don't have the capital - The operator has it and it won't be paid back until the unit is relicensed.

4. When weekly fees stop



RENTAL TENANTS stop paying rent when they leave the property.

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RENTAL TENANTS stop paying rent when they leave the property.



With VILLAGE RESIDENTS many ORA's allow the weekly fee to keep on being charged ad infinitum - even though the resident has left.

5. Weekly fee increases



RENTAL TENANTS are not faced with a rent increase during the Agreement time.

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RENTAL TENANTS are not faced with a rent increase during the Agreement time.



VILLAGE RESIDENTS not on Fixed or CPI adjusted fees can incur sudden fee increases. Last month an operator told its senior residents that it was putting the weekly fee up by 50%. FIFTY PERCENT!

6. Accrual of ongoing fees after exit



RENTAL TENANTS do NOT accrue additional fees or deferred management charges after exit.

6. Accrual of ongoing fees after exit



RENTAL TENANTS do NOT accrue additional fees or deferred management charges (DMF) after exit.



VILLAGE RESIDENTS can be. Some operators keep calculating the DMF after the resident has exited, and this continues until such time that the operator re-licences the unit and has received the incoming residents money.

7. Robust and timely complaints system



RENTAL TENANTS have a robust complaints system and the regulator has powers.

7. Robust and timely complaints system



RENTAL TENANTS have a reasonably robust complaints system and the regulator has powers.



For VILLAGE RESIDENTS, the Registrar (and Statutory Supervisor) have very limited powers. The Registrar can suspend an operator's licence, however, if they do, it stops the operator from re-licensing units which results in the resident who's waiting for their money getting caught in the middle, so it's rarely invoked.

8. Standardised Agreements



RENTAL TENANTS sign a standardised rental agreement when they decide to take up a tenancy.

8. Standardised Agreements



RENTAL TENANTS sign a standardised rental agreement when they decide to take up a tenancy.



VILLAGE RESIDENTS sign an ORA that is so complicated the government has mandated the need for a solicitor to explain it to them. Very few fully understand the implications of the ORA because the legislation is open to wide interpretation.

9. Having to pay twice



RENTAL TENANTS moving to another property, do not have to pay a second bond while waiting for the first one to be refunded. It can be transferred and sorted within 23 working days.

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RENTAL TENANTS moving to another property, do not have to pay a second bond while waiting for the first one to be refunded. It can be transferred and sorted within 23 working days.



VILLAGE RESIDENTS have been asked to pay upfront for a second unit if the resident wishes to move. More operators are now setting up double deferred management fees between independent living and care to ensure they get 2 bites at a resident's equity. **A resident can now see over half of their capital disappear.**

10. Return of the bond / residents equity



RENTAL TENANTS have their bond returned within a set period, namely 23 working days.

10. Return of the bond / residents equity



RENTAL TENANTS have their bond returned within a set period, namely 23 working days.



For the majority of VILLAGE RESIDENTS, it's not until their empty unit is relicensed and the incoming resident has paid in full, that they get to see the 70-80% of their equity returned. This can take months or years.

Retrospective or Prospective



Changes for RENTAL TENANTS were made **retrospectively** so that ALL would benefit from these new protections.

Retrospective or Prospective



Changes for RENTAL TENANTS were made **retrospectively** so that ALL would benefit from these new protections.












If we want fairness for the 48,000+ VILLAGE RESIDENTS that already call their retirement village, home - then any review would ensure that each one of these residents were also protected by any updated legislation.

CONSUMER

“The Bank of Mum and Dad plays a sizeable role when it comes to helping young home buyers on the property ladder, ranking fifth after ANZ, ASB, Westpac and BNZ when it comes to owner-occupier loans. The Bank of Mum and Dad (BOMD) has doled out a whopping \$22.6 billion in loans.”

April 28, 2022

Bank rankings		Owner-occupier lending (NZD)
	ANZ	\$72 billion
	ASB	\$50.8 billion
	Westpac	\$44.9 billion
	BNZ	\$39.3 billion
	Bank of Mum and Dad	\$22.6 billion
	Kiwibank	\$16.8 billion
	TSB	\$4.3 billion
	SBS	\$2.5 billion
	The Co-operative Bank	\$1.9 billion
	Bank of China	\$1.3 billion

The Bank of Grandma & Grandad

Fairness + Consumer Protection

QUESTIONS...

Presentation from the RVA

Jeremy Nicoll, CEO Arvida, RVA Executive Committee





RVA response to stakeholder concerns

Te Ara Ahunga Ora RV Stakeholders forum
Wellington, 3 August 2022

What I'm going to talk about ...

RV industry statistics

RVA Blueprint responding to issues

- Research into resident concerns to gather evidence
- Re-licensing times
- Weekly fees
- Transfers to care
- Hearing the residents' voice
- Professional development programme

Complaints and disputes

Conclusions

The industry today

- 425 villages (407 RVA members)
- 38,400 villas, apartments and serviced apartments (care suites)
- 49,000 residents = 14% of the +75 demographic
- Average village size = 86 units

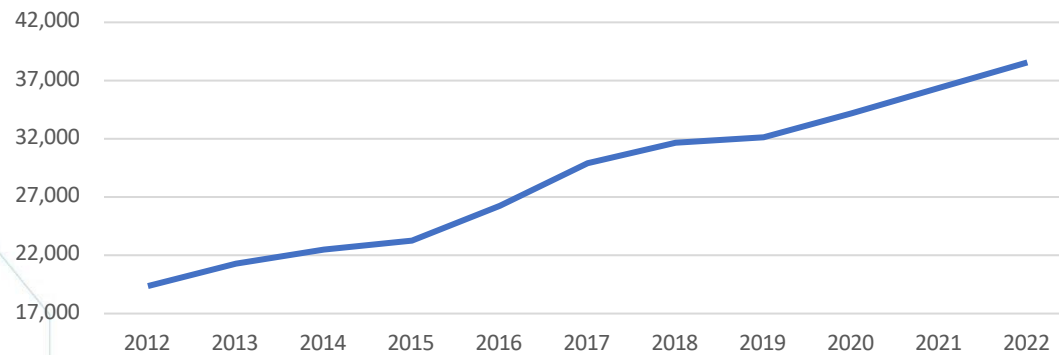
Big Six operators = 47% villages, 63% units

65% of villages offer a continuum of care

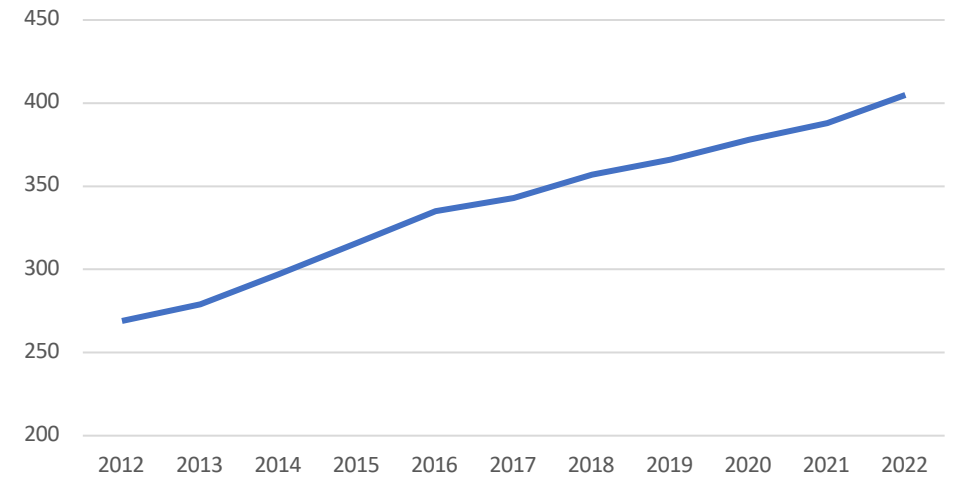
RVA database, JLL 2022 report

A 10 year journey

Total number of Units by Year



Total number of Villages by Year



RVA database of member returns

Mainstream housing option

Population growth

2021 = 345,960 people +75

2048 = 832,800 people +75

Village resident growth

2021 = 49,000 people

2033 = 80,600 people

2048 = 119,640 people

JLL 2022 White Paper

Village development pipeline

There are 216 villages in the development pipeline.

129 (60%) are expanding or refurbishing

87 (40%) are new villages – brown or green field development

Capacity to deliver 20,750 units and apartments.

- Auckland = 34% (6,980 units)
- Canterbury = 18% (3,647 units)
- Waikato = 11% (1,781 units)



Red dots = new builds
Black dots = existing
village expansion

JLL White Paper 2022

The catalyst ...

Retirement Commission's White Paper, December 2020 advocated a wholesale review of RV legislative framework.

- Consumer protection (mandatory legal advice, registration, statutory supervisor, etc)
- Commercial terms (DMF, weekly fees, business model).

Focus is on developing industry best practice rather than regulatory intervention.



BLUEPRINT FOR NEW ZEALAND'S RETIREMENT VILLAGES SECTOR

New Zealand's retirement villages sector has launched a comprehensive blueprint to introduce a range of improvements in the industry.

The growing popularity of retirement village living and the overwhelming satisfaction levels among residents clearly demonstrates that our sector has struck the right balance between robust regulatory oversight and effective self-governance.

However, we accept there is always room for improvement and refinement around certain practices as our sector and our offering evolves.

That's why the RVA signed a Memorandum of Understanding with the Retirement Village Residents Association of New Zealand to work together on issues to ensure the interests of our residents continue to remain paramount in everything we do.

This blueprint sets out the tangible and definitive steps we will be taking to achieve that goal.



John Collins
Executive Director

OUR PROMISE

- Provide residents with a stronger voice
- Strengthen the complaints process by exploring establishing an Ombudsman to hear and resolve complaints and invite an independent member of the public to sit on the RVA Executive to represent residents' interests
- Survey all members annually to examine emerging trends
- Work with members, residents and the Retirement Commissioner to design a best practice approach to re-licensing that reflects the reality of the local real estate market, yet ensures residents' estates do not wait an unreasonable period of time for a refund
- Review Occupation Rights Agreements (ORAs) to address any perceived unfair terms or confusing clauses and ensure clarity around what the resident and operator are responsible for, in particular, repairs, maintenance and replacement of operator-owned chattels
- Continue to work with the Commission for Financial Capability (CFFC) to develop best practice standards around disclosure of information about residents' transfer to care and incorporate these into the Retirement Villages Code of Practice.

96%
of residents were either very satisfied, satisfied or neutral

83%
of residents satisfied with the quality of the legal advice they received before moving into their retirement village

70%
of residents satisfied with their overall consumer protection

Distinguish the legislative consumer protection that all must comply with from the commercial terms that add flexibility and choice



Key resident concerns are :

Delays in re-licensing

Issues around weekly fees

Making the residents' voice heard

Effective training

Research undertaken

Two major research projects by UMR Insight –

January 2021

Resident attitudes

- 1,000 residents across 56 villages

September 2021

Resident Vulnerabilities

- 1,692 residents across 105 villages

Research intended to address

Level of satisfaction with their decision to move to a village

Whether residents feel safe and secure

Whether residents feel vulnerable

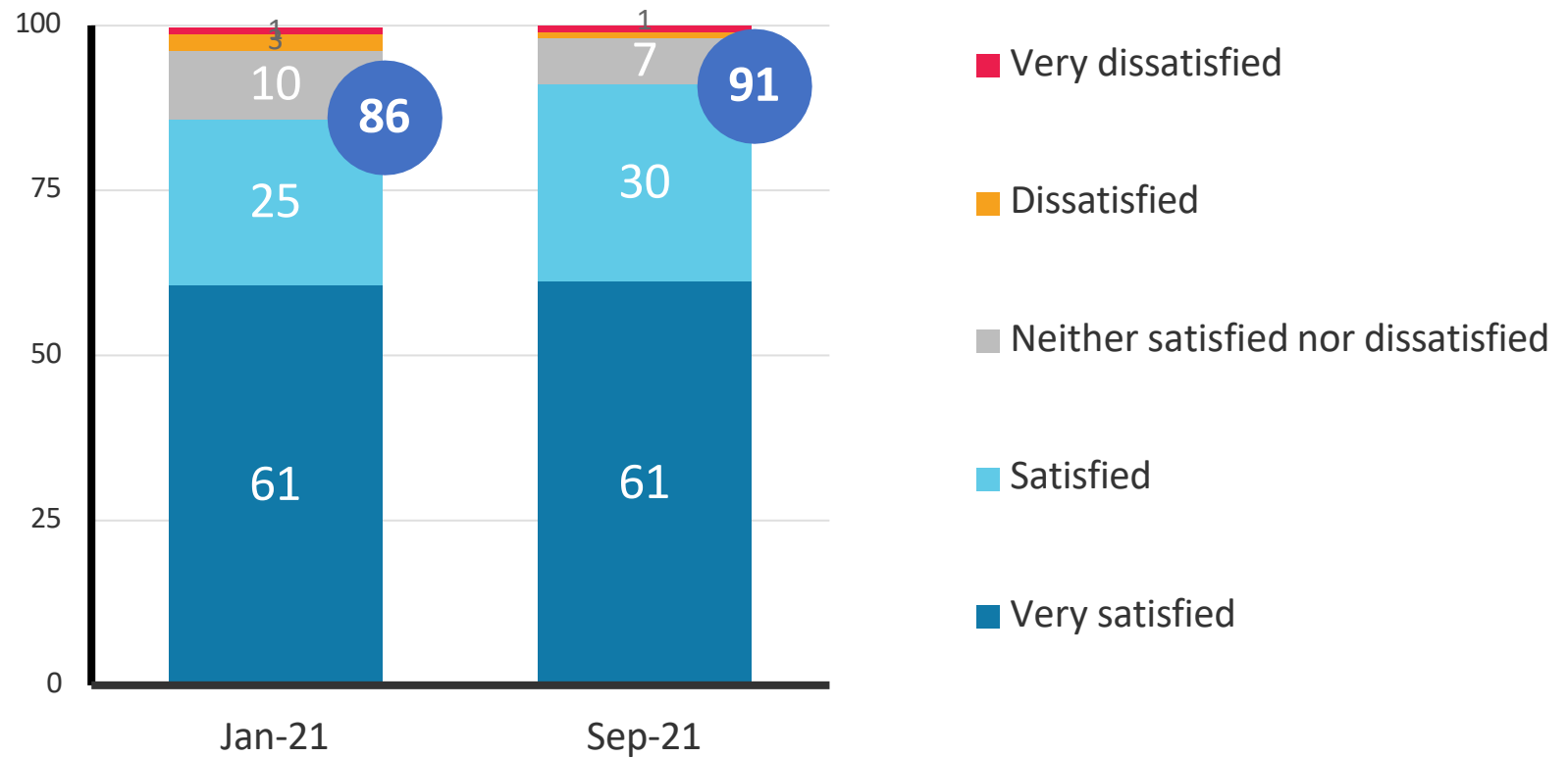
How residents feel about their village staff

How likely they are to recommend their village to a friend or family (Net Promoter Score)

Most residents are satisfied with living in their retirement village



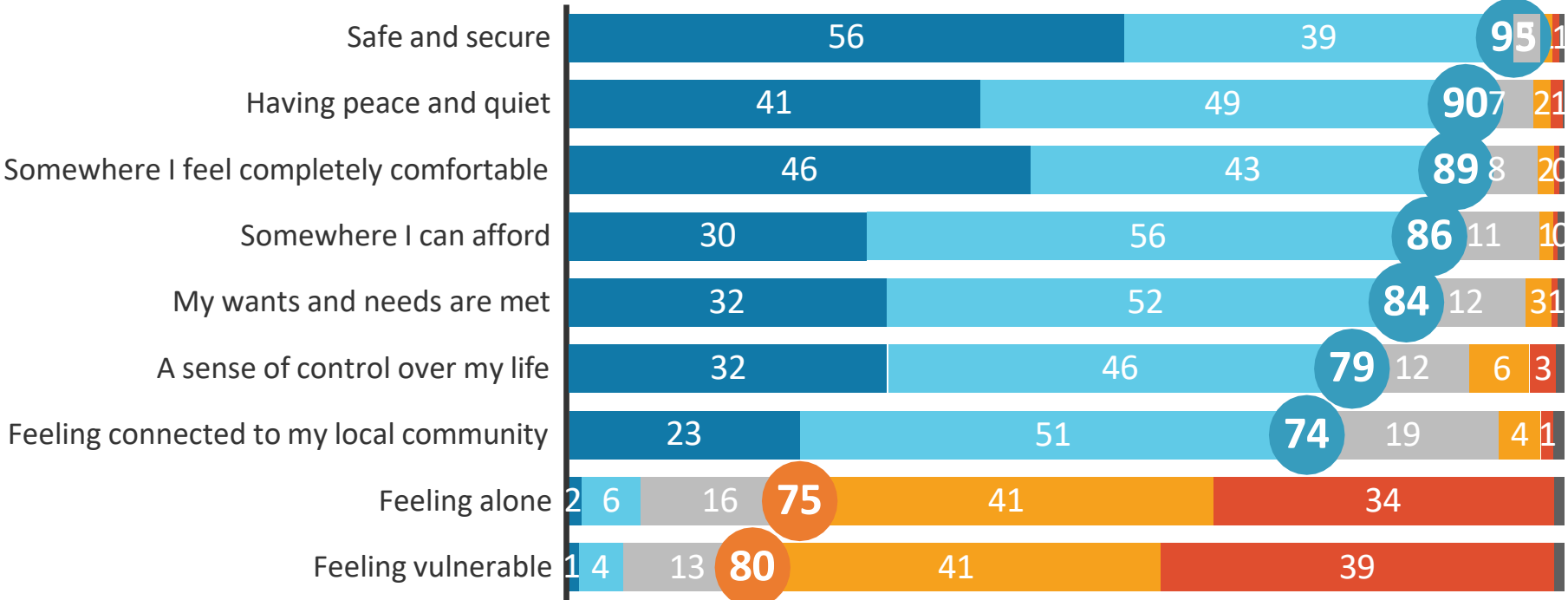
Overall, how satisfied or dissatisfied are you with your experience of living in this retirement village? (%)



Base: All respondents (n=1,692)

The vast majority of residents feel safe and secure, with almost none declaring a strong sense of vulnerability

Q How strongly do you agree or disagree that each of the following apply to your experience of living in this current retirement village? (%)

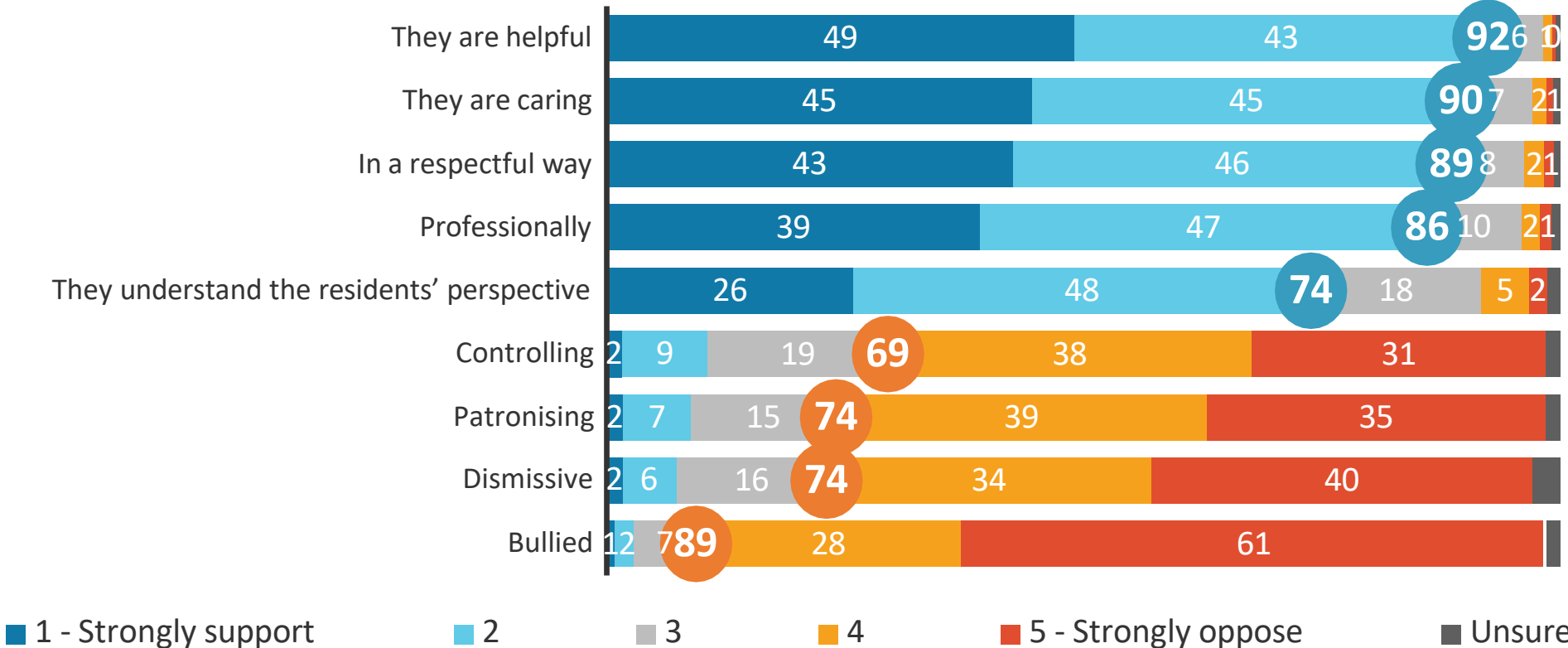


■ Strongly agree
 ■ Agree
 ■ Neither agree nor disagree
 ■ Disagree
 ■ Strongly disagree
 ■ Unsure

Base: All respondents (n=1,692)

Residents declare staff in their villages to be overwhelmingly helpful and caring

Q How strongly do you agree or disagree that each of the following apply to how you are treated overall by your Retirement Village staff? (%)

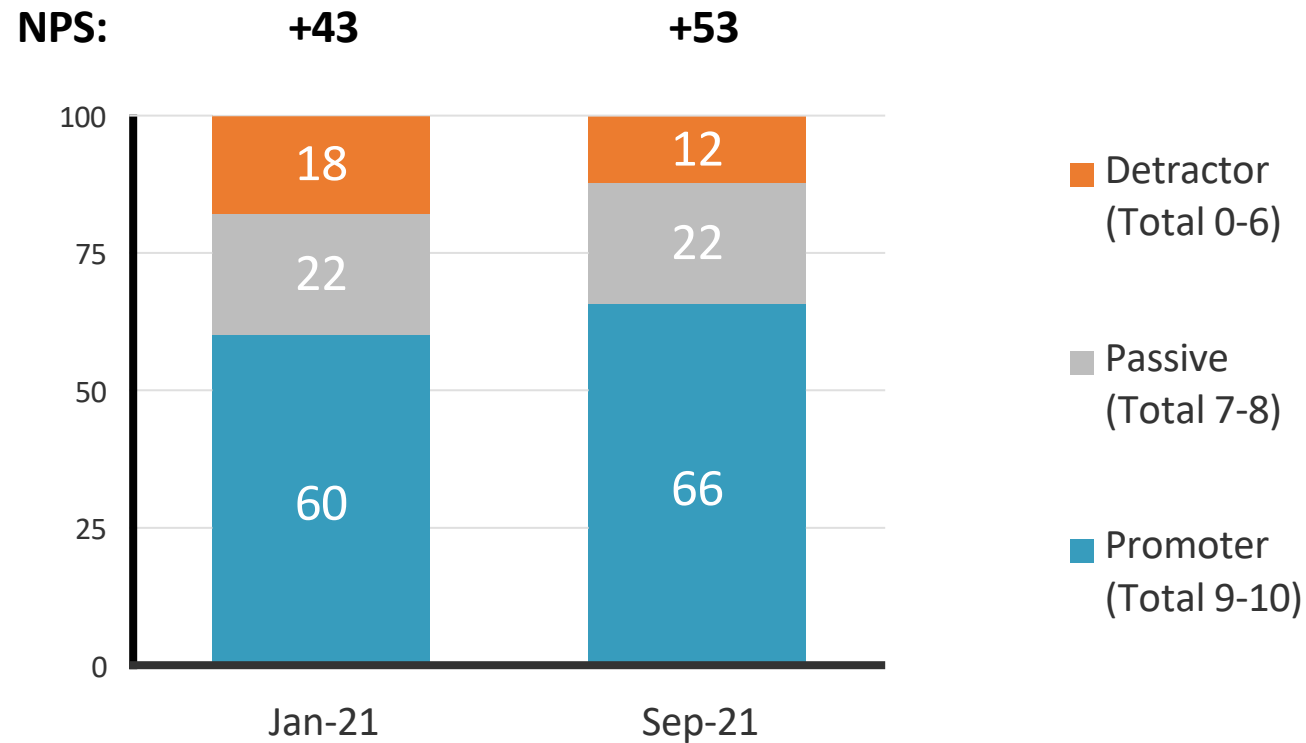


Base: All respondents (n=1,692)

Residents declare a 10-point increase in the net favourability score for their villages



How likely is it that you would recommend this retirement village to a friend or family member? (%)
(Please note the scale for this question is: 0 – Not likely at all and 10 – Very likely)



Note: NPS = Promoters – Detractors; Base: All respondents (n=1,692)

1. Re-licensing times

Re-licensing delays concern, especially if money is required to move to care.

Intervene with some members with extended re-sale times to encourage buy-backs.

Residents' Association's petition proposes mandatory buy-backs after 28 days.

Time taken to settle ORAs during 2021 (Out of units relicensed in 2021)

For the units that were under an ORA that were empty at the start of 2021 or become free during that year how many were relicensed within each of the following time periods?

Region	0-3 Months %	3-6 months %	6-9 months %	9+ months %
All regions (n=3,147)	38	39	14	9
Northland (n=173)	56	32	7	5
Auckland (n=882)	16	38	27	18
Waikato (n=242)	36	43	11	11
Bay of Plenty (n=288)	51	43	4	3
Hawke's Bay/Gisborne (n=161)	48	39	9	4
Wellington (n=356)	48	43	6	3
Taranaki/Manawatu-Wanganui (n=235)	61	34	4	-
Nelson/Marlborough/Tasman/West Coast (n=157)	39	48	12	1
Canterbury (n=467)	36	33	18	12
Otago + Southland (n=186)	55	37	5	4

Note: The total population for deriving percentages are based on units that were either empty at the start of 2021 or became empty during that year –but also relicensed within 2021. Any units that were not relicensed at the end of 2021 were excluded from the percentage calculation

Matters to consider

- Lock-downs reduced opportunity to view
- Supply chain issues delayed refurbishment
- Serious skill shortages in trades
- Slowing housing market means people wait to get the equity wanted from their family home
- House sales fall over so process starts again.

We think 6 months is reasonable!

Average NZ re-licensing times half those in Australia
(4 months v 8 months)

Economic impact

Risk – banks see a hard deadline as a funding risk and will require operators to hold sufficient cash or a line of credit to be able to buy back units by the legislated deadline.

\$2.2 billion cash or line of credit required annually

Annual cost of providing this = up to \$150k for small villages, \$1.5 million for large villages.

Cost added to ORA selling price and/or higher DMF.

Risk seen as too great so villages not able to expand; options reduced; aged care facilities not built.

What we're doing about it

Stress – this has yet to be approved by members.

Acknowledge that nine months may be realistic in some provincial markets, but still too long for most

Recommend operator makes a compensatory payment of interest at a realistic rate on outstanding capital sums.

Benefit – doesn't penalise efficient operators, encourages others, recognises the obligations to families.

2. Weekly fees

Residents' Association have asked for:

- Fixed weekly fees
- If not fixed, fees increase by CPI
- Fees stop when unit is vacated

Matters to consider

60% of villages fix the weekly fees, responding to market demand. Cross subsidy from DMF etc

44% of villages stop weekly fees when unit is vacated

Options offer choice for residents.

But many smaller, independent villages share all costs equally across all residents. Costs don't stop; unfair to ask remaining residents to pay more if a unit is vacated.

What we're doing about it

Stress – this has yet to be approved by members

Best practice is that operators stop weekly fees when unit is vacated – perhaps via a grandparent clause for future ORAs

Disclosure statement is clear how fees are adjusted.

3. Transfers to care

Stress – this has yet to be approved by members

RVA Key Terms Summary has info about care available

Transfers within a village usually seamless

MSD can lend against capital held by operator

If MSD loan not available, suggested best practice is for outgoing village operator to advance capital to care operator against re-licensing of unit.

4. Hearing the residents' voice

Resident Advisory Group – chaired by Hon Ruth Dyson

Hon Jo Goodhew is the Independent Member of the RVA Executive Committee to put older peoples' perspective.

RVA holds briefings with local village residents' committee officers.

5. Te Ara – professional development



Te Ara Institute
A **DCMI** and RVA Collaboration

Te Ara – the pathway. Accepts that learning is a journey taken by many over time to an intended destination and in a prescribed manner.

Joint venture with the DCM Institute in Sydney.

Te Ara benefits

Broad range of resident-focused topics

Investment allows learners to access a growing range of topics each month

Continuous Professional Development (CPD) points awarded for each topic successfully completed

Range of media – webinars, on-line training, face-to-face forums, masterclasses

Industry-wide recognition of qualifications

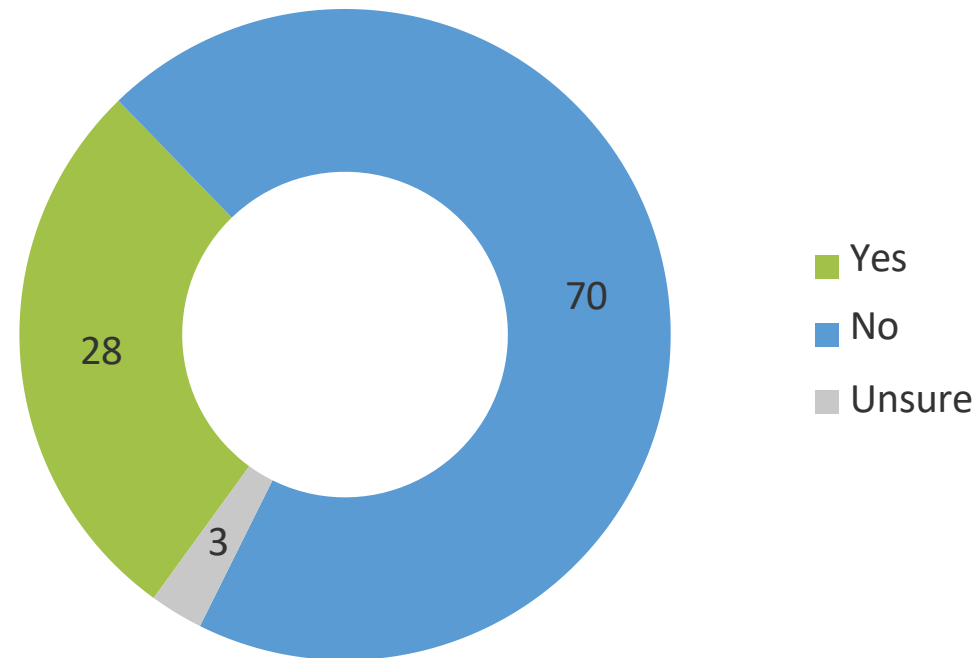
6. Complaints and disputes

TAAO 6-month surveys show the system works well.
Aware that vulnerable residents may not be heard:

- FairWay trial in 11 Auckland villages (2,100 residents)
- Promoted to all existing and new residents
- So far, 8 calls received
- Survey to test knowledge and understanding of service and RV complaints process in general

Under a third of residents declared awareness of the Fairway 0800 service

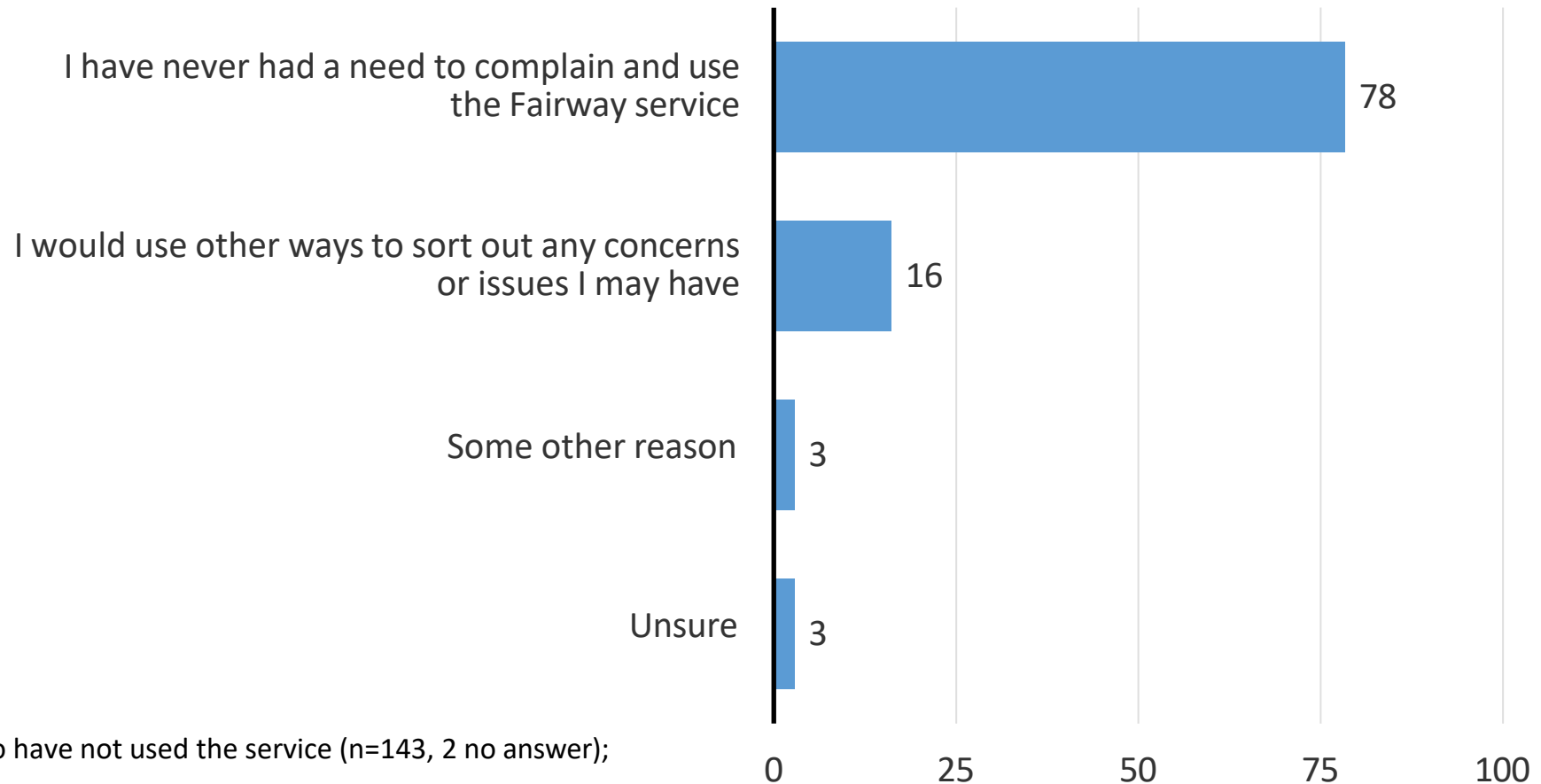
- *Fairway Resolution Services runs an 0800 number that you can call to access advice on issues of concern. It is designed to show you the process for how to make a complaint or resolve a problem. Are you aware of this service? (%)*



- Base: All (n=490, 8 no answer)

Strong majority of residents have no need to complain and use the Fairway 0800 service

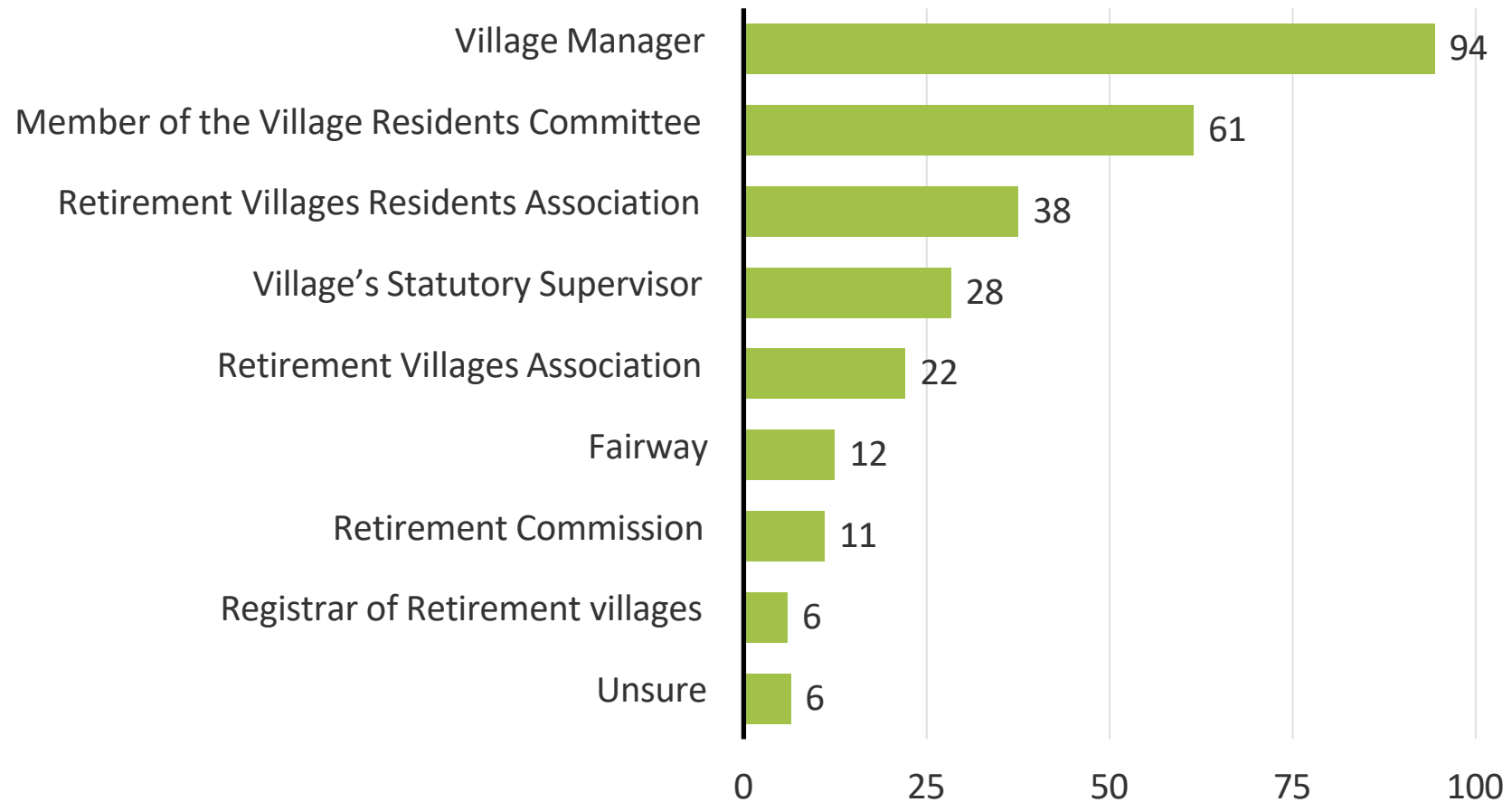
- If you have not used the Fairway 0800 number service, which of the following best describes the main reason for not using it? (%)*



- Base: those aware but who have not used the service (n=143, 2 no answer);

Most residents are aware that they can approach their Village Manager if needing to complain

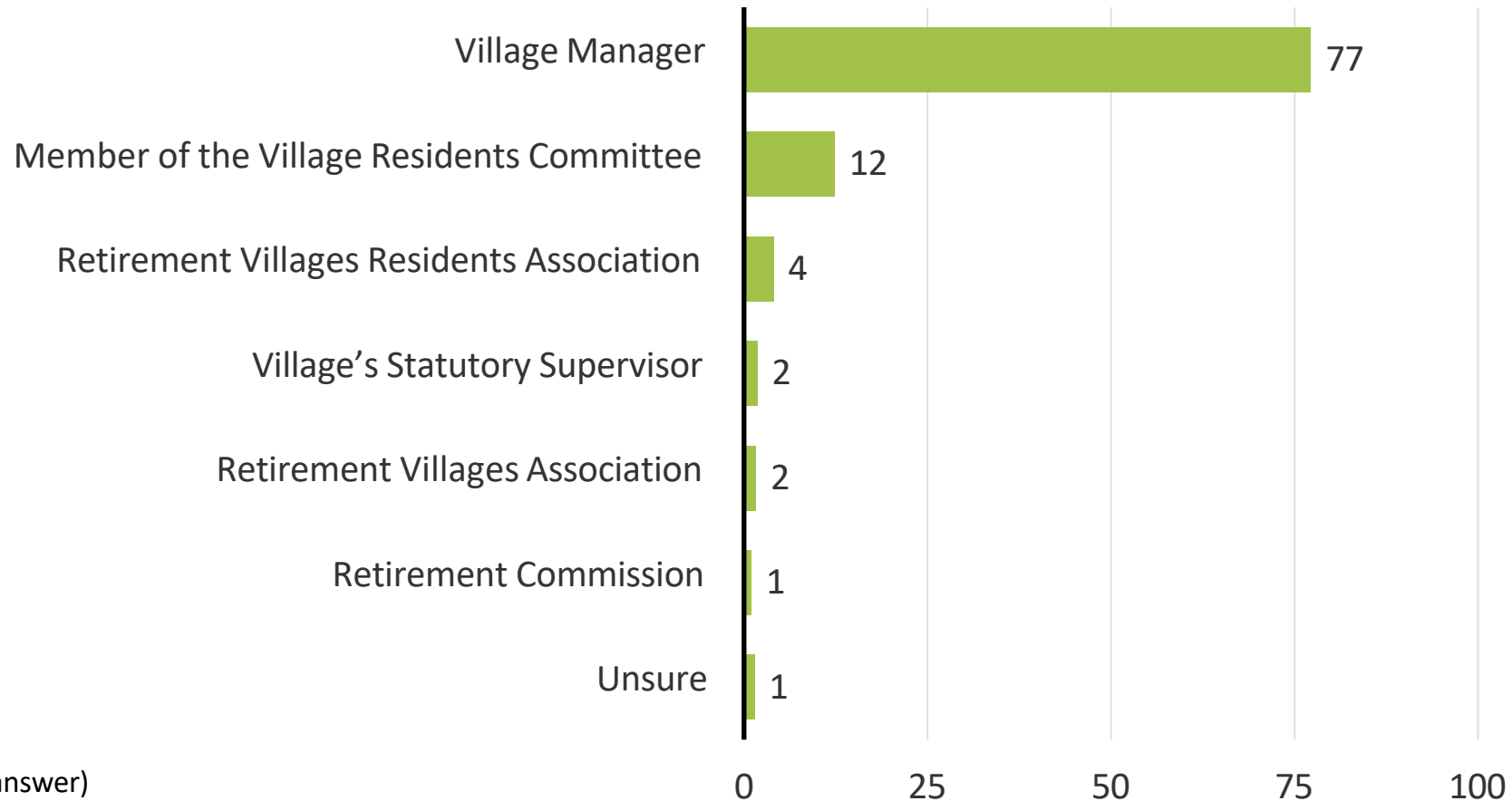
- *Which of the following agencies or people are you able to approach to make a complaint about your experience of living in a retirement village? (%)*



• Base: all (n=498)

A strong majority of residents would first approach their Village Manager if needing to make a complaint

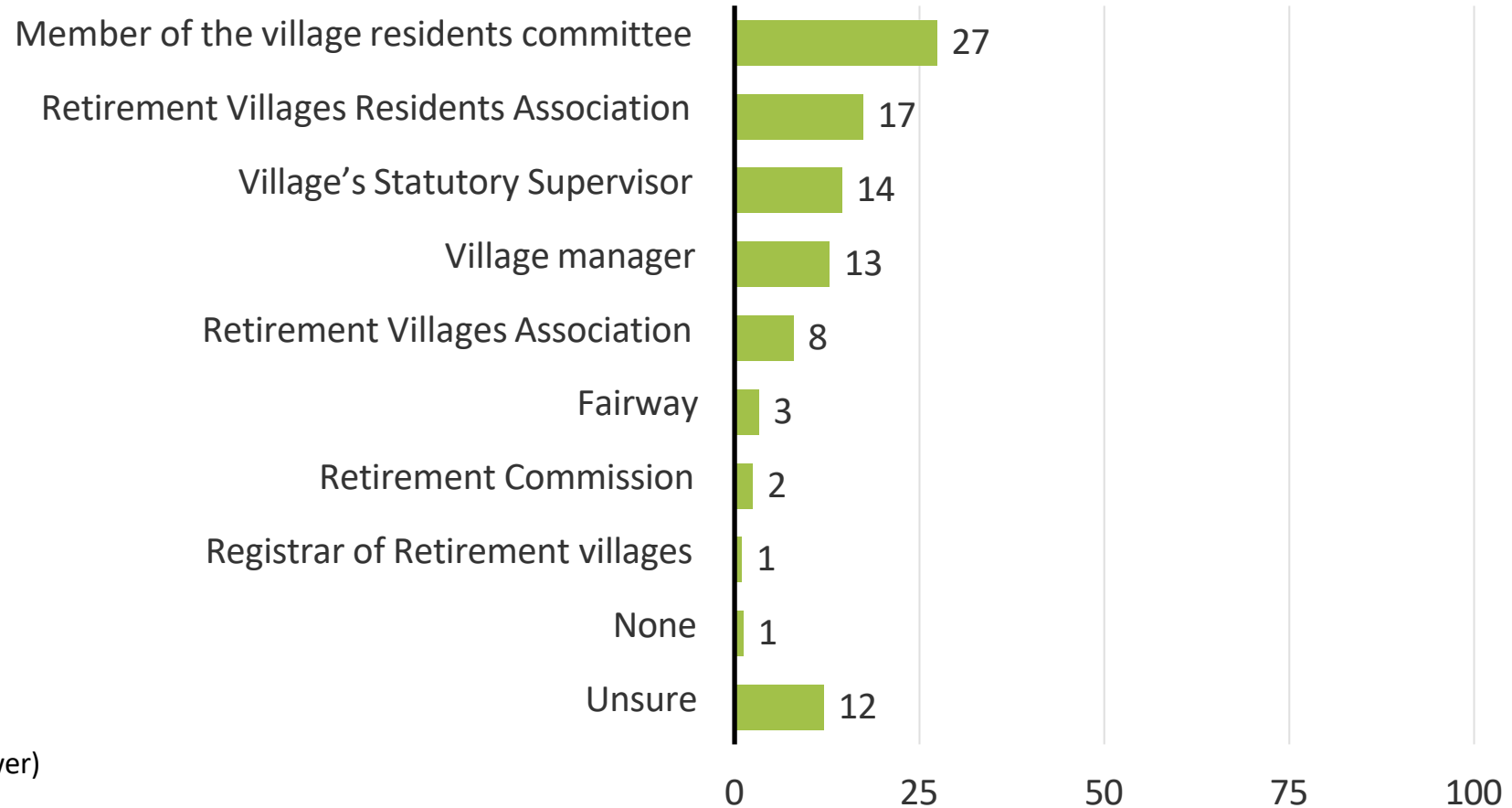
- If you ever wanted to make a complaint about your experience of living in a retirement village which one of the following would you approach first? (%)*



• Base: all (n=496, 2 no answer)

Second approach for making a complaint

- If you did not receive a satisfactory outcome from the person or agency you selected above where would you most likely go next? (%)*



- Base: all (n=490, 8 no answer)

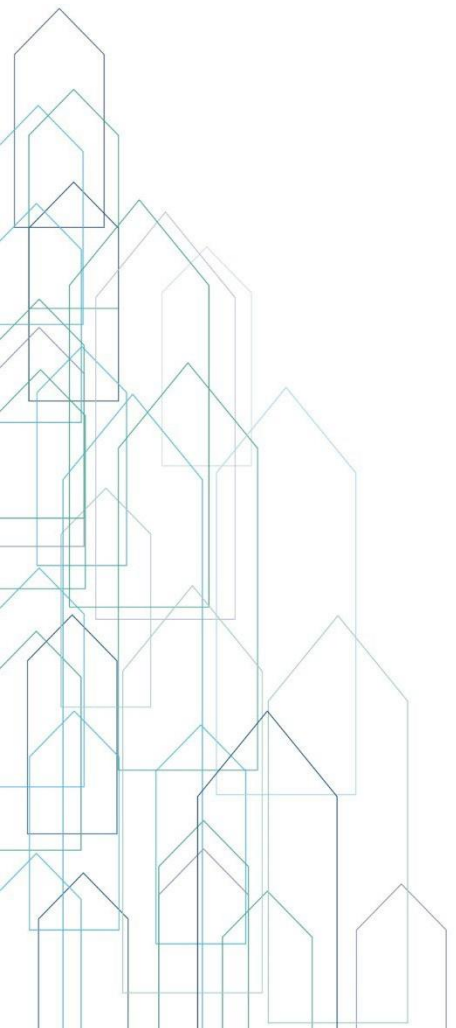
Summary

Important not to confuse consumer protection in legislation with commercial terms.

Terms allow diversity and choice. Reducing these is not in residents' interests.

Consumer protection can be improved by better disclosure – KTS, transfers to care

Acknowledge issues – industry best practice is a balanced way to resolve concerns



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Moving on from the village

Interface of RVs and care: Disclosures



Current disclosure requirements

- Regulation 31 of the Retirement Villages (General) Regulations 2006 sets out the requirement to make various disclosures relating to moving into a rest home or hospital care institution in a retirement village
- In addition, clauses 24 and 25, Retirement Villages' Code of Practice set out further disclosure requirements



Extract from Retirement Villages (General) Regulations 2006

31 Moving into rest home or hospital care institution in retirement village

- 1) If a retirement village shares premises with a rest home or hospital care institution, a disclosure statement for an occupation right agreement relating to the village must include—
 - (a) a statement indicating whether the agreement also allows the resident to leave the residential unit and receive either rest home care in the rest home or hospital care in the hospital care institution; and
 - (b) if the agreement allows that, an explanation of the terms on which that is allowed.
- 2) In this regulation,—
 - hospital care has the meaning given by section 4 of the Health and Disability Services (Safety) Act 2001
 - rest home care has the meaning given by section 4 of the Health and Disability Services (Safety) Act 2001.



RV Code of Practice extract clause 24

Transferring residents within a retirement village

24 Transfer requirements in the occupation right agreement

- 1 If an occupation right agreement allows a resident to transfer from an independent self-care residential unit to a unit in the retirement village where a higher level of care will be provided, it must set out the terms of transfer. The terms of transfer must include, but need not be limited to, the following:
 - a the circumstances under which the transfer may be initiated and by whom
 - b whether residents have priority over outside applicants
 - c whether the transfer depends on:
 - i a suitable residential unit being available
 - ii suitable care being available
 - iii the resident being assessed as suitable for the available care
 - d that residents affected have the right to:
 - i be given information on all available options
 - ii have an independent assessment (including a needs assessment)
 - iii be consulted, along with their family or representative.



RV Code of Practice extract clause 25

25 Financial and other arrangements in a transfer

- 1 The occupation right agreement must set out the financial and other arrangements that apply if a resident transfers from an independent self-care residential unit to a unit in the retirement village where a higher level of care will be provided. These include:
 - a any changes in charges to the resident as a result of the transfer
 - b other arrangements for the transfer, such as the physical transfer of the residents and their personal belongings
 - c any other costs incurred by the transfer, and who is responsible for those costs.



RVA: Best Practice Guidelines for Disclosure of Right to Transfer to Care in a Retirement Village

1. Whether the retirement village shares premises with or includes as part of the village a rest home and/or hospital care institution.
2. Whether the retirement village operator offers a resident the right to move from the village to a rest home and/or hospital care institution located elsewhere, whether owned or operated by the operator, an associated party or a third party.
3. If the operator answers yes to either question 1 or 2 or both above, describe the care levels currently offered in the relevant care institution, e.g. rest home, hospital, dementia or psychogeriatric.
4. State the total number of rooms and how many rooms are currently available in each care category.
5. Whether a resident has priority over non-residents to move to the care institution.
6. Whether an independent assessment required before a resident can transfer to the care facility? If not, explain that a resident will not be able to access subsidies administered by the government.
7. Whether a resident is obliged to pay any additional resident funded charges in addition to the daily care fee set in the Territorial Local Authority. If yes, describe the charges, e.g. daily premium room charges or a capital payment for an occupation right agreement.
8. If an independent resident elects to purchase an occupation right agreement in the care institution explain the key financial terms, e.g. whether a transfer policy is applicable.



Report of the Social Services and Community Committee Petition of Sue Brown

- We consider that publishing statistics about the levels of care available within a village may provide greater certainty to prospective residents. The statistics could include:
 - the availability of beds in a village or facility when a unit is being considered
 - the number of 24-hour-care beds in a facility
 - the number of times someone in the village has been separated from their spouse in the last five years due to bed unavailability
 - the different types of rooms and beds available in a village



Report of the Social Services and Community Committee Petition of Sue Brown

- We encourage the sector to consider ensuring that the ORA process includes the following information and consultation:
 - ORAs should be written in plain English.
 - Prospective residents should receive simple summaries of their rights and obligations before signing an ORA.
 - The financial consequences of moving between levels of care should be clearly communicated prior to signing an ORA.
 - Procedures should be put in place to ensure that there is ongoing communication of residents' rights and obligations after signing an ORA. We consider this particularly important when a resident may be close to moving to another level of care.
 - Any changes to the facility's ability to provide different levels of care to residents should be communicated to residents as soon as possible.



Panel discussion: Disclosures: Transfer process and availability of care – what do RV residents need to know?

- Panel Chair: **Michelle Reyers**, Te Ara Ahunga Ora Retirement Commission
- Panel:
 - **Peter Carr**, Past President, RVR
 - **Jeremy Nicoll**, CEO, Arvida & RVA Executive Committee Member
 - **Sara Jones**, Independent consultant to Te Ara Ahunga Ora Retirement Commission



Overview of the legislative review process

Melissa Easter, Principal Policy Advisor, Ministry of Housing and Urban Development



Closing and Thanks





**TE ARA
AHUNGA ORA**
Retirement Commission

