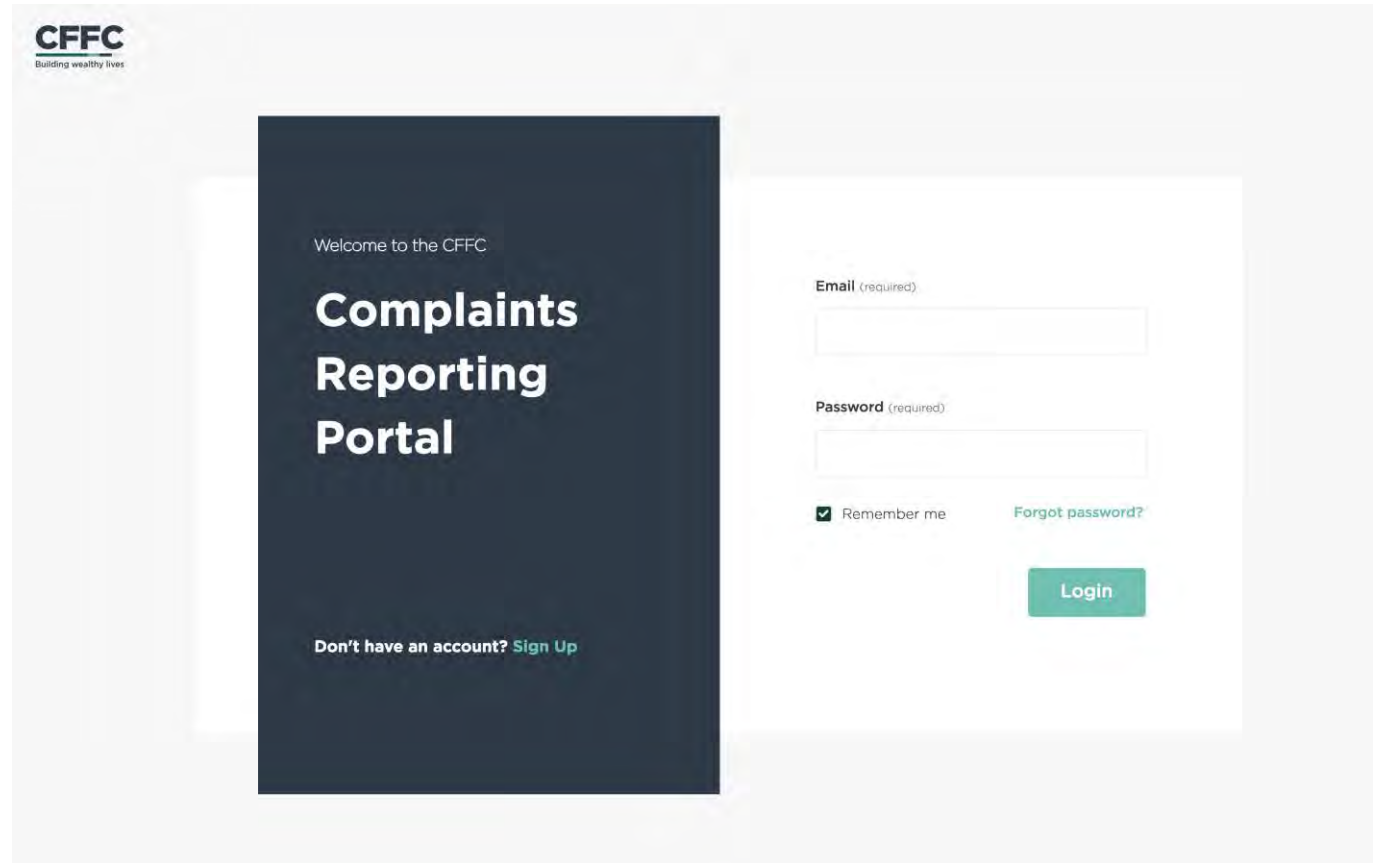


RETIREMENT VILLAGE STAKEHOLDERS' FORUM 2018



NEW REPORTING PORTAL

- In effect for recent reporting period
1/4/18 – 1/10/18
- New portal. Create new account.



The screenshot shows the login page for the CFFC Complaints Reporting Portal. The CFFC logo is in the top left corner. A dark blue banner contains the text 'Welcome to the CFFC' and 'Complaints Reporting Portal'. Below the banner, there is a login form with fields for 'Email (required)' and 'Password (required)'. A 'Remember me' checkbox is checked, and there is a 'Forgot password?' link. A green 'Login' button is at the bottom right of the form. A link for 'Don't have an account? Sign Up' is at the bottom left of the banner.

CFFC
Building wealthy lives

Welcome to the CFFC

Complaints Reporting Portal

Don't have an account? [Sign Up](#)

Email (required)

Password (required)

☒ Remember me [Forgot password?](#)

Login

Complaint Reporting: April – October 2018 Results

Operator compliance with this Code requirement has slipped!

- 274 villages reported (340 individual villages reported: Oct 17 – April 18)
- 193 (70%) had no complaints (242 or 71% had no complaints: Oct 17 – April 18)
- 81 villages reported 203 complaints (98 villages reported 181 complaints: Oct 17 – April 18)
- 127 users entered data into the complaints portal, representing 119 operators

81 out of
274
reporting
villages
had 203
complaints

Complaints: 203

Resolved: 154

Part Resolved and Closed: 5

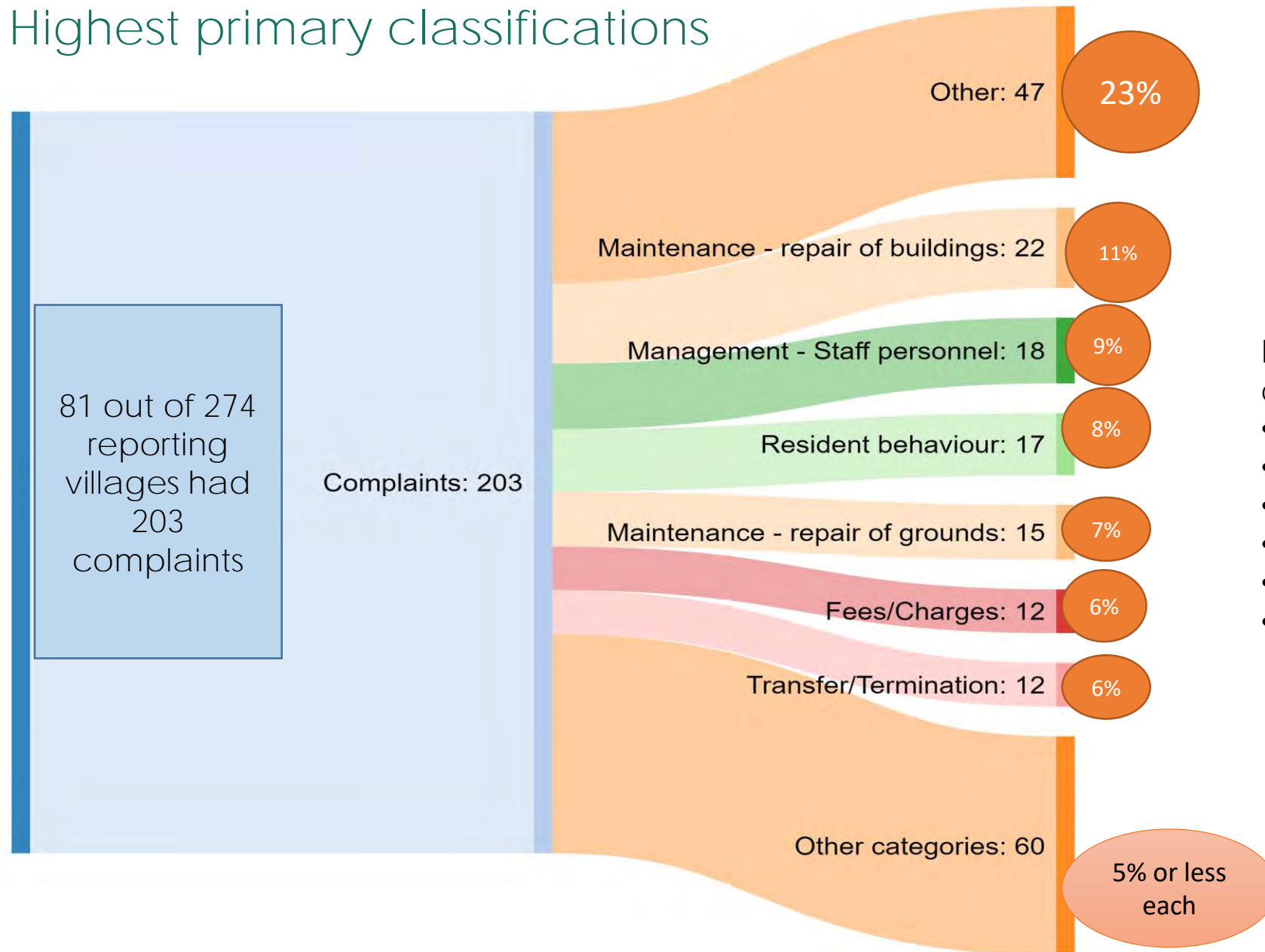
Part Resolved & Open: 18

Open: 17

Under Investigation: 9

- 162 (91%) of resolved complaints were resolved within 20 working days
- 29 (14%) of complaints involved the statutory supervisor
- 8 involved a mediator or Independent Third Party
- 23 involved other parties

Highest primary classifications



Highest secondary classifications:

- Fees/Charges (15)
- Service quality (13)
- Other (11)
- Resale (9)
- Maintenance/buildings (7)
- Maintenance/grounds (7)

Monitoring & Engagement 2017/18

- Over 20 public events nationwide targeting intending residents, the public, interest groups
- Around 8000 a 'Thinking of living in a retirement village booklets dispatched'
- Facebook live ' *Hot issues in RV* ' – 'viral' over 20,000 reached, new video materials uploaded to web
- Quarterly briefings with RVA delegates, attending RVA forums and national conference
- Conducting regional resident-only workshops, attended at least 2 regional RVRANZ AGMs or national RVRANZ AGM
- Chairing 2 x Law Society CLE sessions about RV
- 0800 call-centre logged over 700 calls
- CFFC fielded over 120 first instance, complex referrals this calendar year
- 3 reported Dispute Panel decisions in 2018



Recent Dispute Panel decision

- Residents claimed the Operator wrongfully, without consultation, made:
 - a) unilateral increase in minimum entry age for new residents at the village;
 - b) unilateral reduction of the health standard for entry for new residents to the village; and
 - c) an unofficial change in the character of the village, to the Applicants' detriment as a result of (a) and (b)**
- The operator claimed it was not required to consult, it only needed to inform residents of the changes it was making, which it did.
- Held: **Section 34 required residents to be 'promptly informed' of information relevant to occupation rights and quiet enjoyment rights.** *The operator had complied with its obligations.*
- **The age of entry or medical requirements of residents were not a "service or benefit"** for the purposes of Right 3 Code of Residents rights - so changing those did not require consultation per clause 28 of the Code of Practice
- The Occupation Right Agreement gave the operator control over what medical information it was entitled to ask prospective residents for.
- Panel preferred Applicant evidence regarding distasteful behaviours from some new residents, but concluded not enough evidence for a link between behaviours observed by the applicants and alleged reduced medical standards.

Recent referrals

- Operator change of policy - Charging DMF on transfer from unit to serviced apartment
- Interpretation of refurbishment costs on termination under a pre 2006 ORA
- Complaint by family to operator – and against statutory supervisor - Handling of formal complaints filed for vulnerable resident relating to:
 - loss of quiet enjoyment due to construction
 - failure of operator to update its disclosure statement regarding construction work and village completion
 - failure of supervisor to ensure operator's disclosure statement was updated
 - whether operator had obligation to disclose construction programme



Monitoring 2018/19: Retirement Villages and Care

What we want to understand



- Whether the current legislative and regulatory regime for retirement villages sufficiently protects the rights and interests of consumers as they progress from independent living under an ORA to aged residential care?
- The effects of new types of village operator practices offering different types of care and integrating care facilities in villages?
- Whether the definition of retirement village remains relevant and fit for purpose in the light of new forms of practice?



Monitoring 2018/19: Retirement Villages and Care

- What we want to understand
- To what extent are representations to intending village residents by village operators regarding continuum of care, or progression from independent living, fair and reasonable - and - is this sufficiently provided for in ORAs?
- Whether the legal framework is future-fit to handle existing and possible further growth and developments in provision of care within villages?



RV MONITORING PROJECT: Methodology	PHASE 1 - Legal framework	PHASE 2 - Policy frame	PHASE 3: RVA, ORA and Care Interface in Practice
Interviews and surveys 	N/A	Interviews with key officials (CFFC and MBIE, Ministry of Health, Selected DHBS, DHB Older People Steering Group, MSD, Office for Senior Citizens, Health and Disability Commissioner)	Interviews with selected RV operators, RVA legal advisors, RV residents association representatives, advocacy & information groups, lawyer survey
Documentary review 	Analysis of relevant RV, health and social security legislation, standards and regulations. Analysis of ORA/Care contracts	Analysis of complaints	Analysis of ORA/Care transition documents and contracts exemplars

Monitoring - Advisory Group

Meets mid-December 2017 and early-July 2018.

Final report published end of July.

- CRESA: Kay Saville-Smith & Bev James
- CFFC: Troy Churton & Celestyna Galicki
- HUD: Fiona Ryan
- MSD Office for Seniors: Diane Turner
- Age Concern: Stephanie Clare
- RVRANZ: Colin Porter
- RVA: Earl Gasparich & Bill McDonald
- Lawyer: Iris Reuvecamp

Retirement Villages and Care

Common Themes and Enquiries – June Mowbray, Seniorline

- Distinguishing retirement villages from rest homes and hospitals
- Expectations around funding and care
- Different emphases about financial costs: sales v care
- Premium room fees:
 - Lack of standard rooms
 - Having to move off-site
 - Operator compliance with the ARRC
 - Multiple DMFs
 - Change of operator

A graphic for Seniorline with a light blue background and a white border. The word "Seniorline" is in large, bold, black font. Below it, a red square is followed by the text "Helping older people" in bold, and "make decisions about staying at home, help for carers and rest homes." in a smaller font. At the bottom, a red square is followed by the text "Call 0800 725 463" in bold.

Seniorline

Helping older people
make decisions about staying
at home, help for carers and
rest homes.

Call 0800 725 463

Retirement Villages and Care

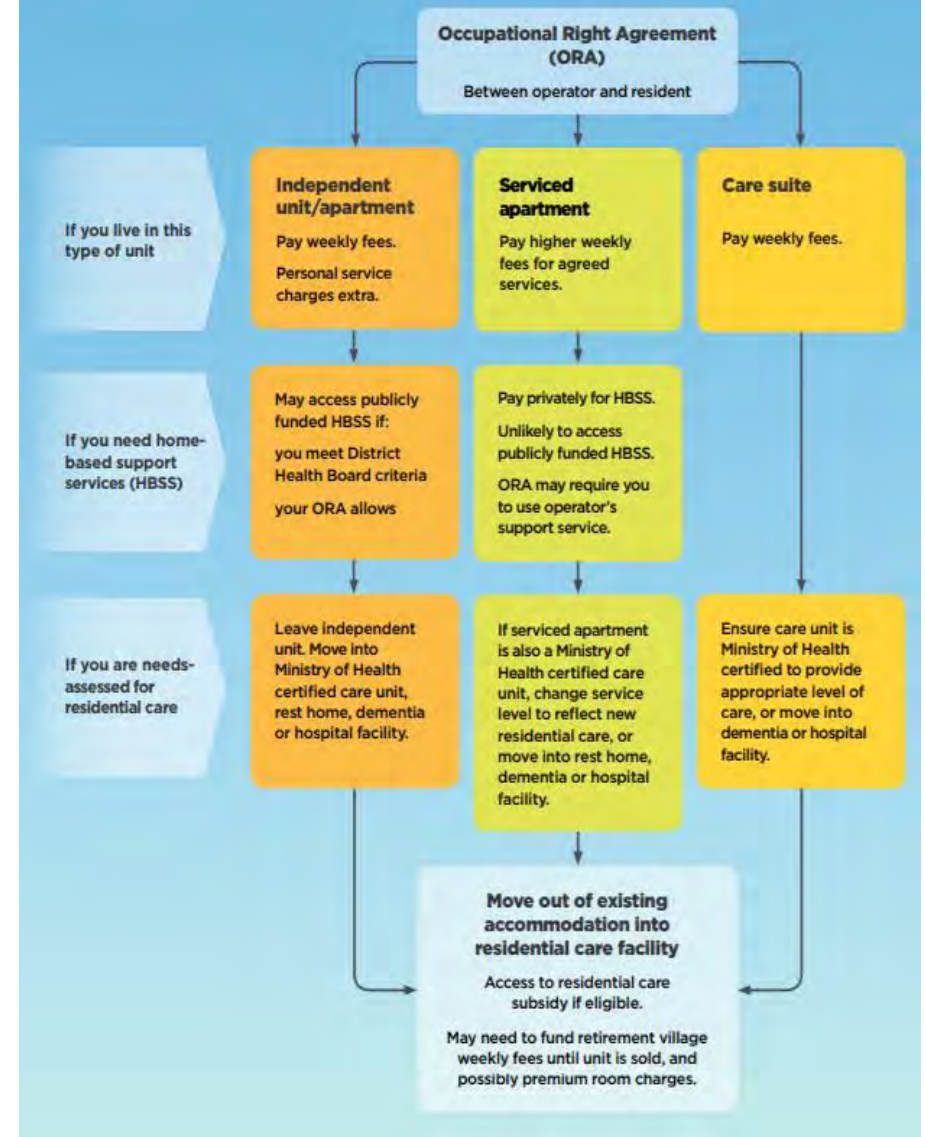
Common Themes and Enquiries – June Mowbray, Seniorline

Seniorline

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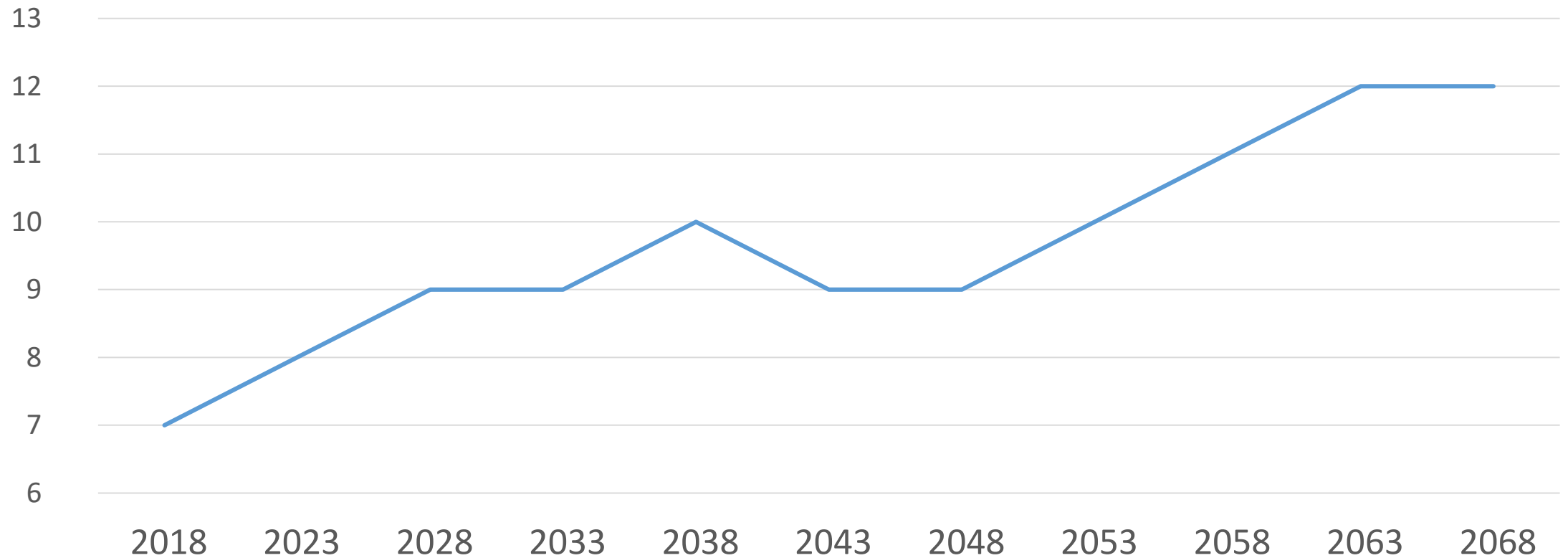
Pathways to care for retirement village residents





Which
regions
have
highest
employment
rates of
people 65+?

65+ as percentage of workforce





Legislators
and judges



Composers,
painters, singers,
instrument makers



Livestock
producers



Religious
professionals

What
occupations
have a
significant
proportion
of 65+
workers?

Source: Census, Statistics New Zealand



What
expenses
decline the
most after
retirement?

Source: Household Economic Survey, Statistics New Zealand



Health



Property
rates and
maintenance



Donations



Newspapers

What
expenses
increase the
most after
retirement?

Source: Household Economic Survey, Statistics New Zealand

Retirement Village Residents Association of NZ

8 key concerns and how changes to the Code would help.

- Who we are
- Our mandate
- Background to the current regime



Resident Proposals for Change – 8 Key Concerns

1. Definitions of deferred maintenance fee' and 'maintenance (clause 2)
2. Funding for maintenance and upgrade (clause 43)
3. Handrails within 'chattels', fixtures and liability (clause 17)
4. Resident Committee powers , representative standing in complaints (clause 30)
5. Time for informing residents before AGM , voting processes (clauses 28-29)
6. Timeline for inspections and refurbishment on termination (clause 46)
7. Increased share of capital gain in insurance situations (clause 47)
8. Capital repayments when resident terminates, ongoing charges, capital loss (clauses 51-54)

Resident Proposals for Change

1. Definitions of DMF and maintenance (clause 2)

- Fixed deductions or DMF
- Outgoings
- Residents' Committee

Resident Proposals for Change *Wording in bold italics are new proposals*

- Clause 2. Definitions

Fixed Deductions: means any payment that may be payable by a resident to an operator in terms of a resident's Occupational Right Agreement. It is also known as a facilities fee, village contribution, or deferred management fee, if the:

- amount or method of calculation of the payment is fixed and known at the start of the resident's occupation right agreement
- payment is made to, or to be made by the resident to the operator at the start of, or on termination of the occupation of the occupation right agreement
- payment amortises or accrues to the operator over a specified time against the resident's capital sum or former resident's capital repayment
- *For the sake of clarity - the purpose of the facilities fee, village contribution, or deferred management fee is to cover the cost on the initial investment in land and buildings, village infrastructure, community facilities, future maintenance and the cost of any periodic upgrading and/or betterment of village property.*

Resident Proposals for Change *Wording in bold italics are new proposals*

- Clause 2. Definitions

Outgoings include costs relating to the operational, management, supervision, and maintenance of the retirement village as a whole that will be recovered from residents as a group under the Occupation Rights Agreement, but do not include costs of providing personal services to a resident. Maintenance in this definition does not include replacement or upgrading of facilities and retirement village property.

Residents' Committee means the committee formed by the residents of a retirement village in accordance with clause 30 hereof and, if properly mandated, may act on behalf of one or more residents in any dispute, negotiation, complaint or dispute process provided for in the Code of Practice, the Retirement Villages Act 2003 and/or any regulations issued under the Act.

Resident Proposals for Change

2. Funding for maintenance and upgrade (clause 43)

- Operator responsibility
- Outside areas of units

Resident Proposals for Change *Wording in bold italics are new proposals*

Clause 43. Funding for maintenance and periodic upgrading of retirement village property.

- (1) The operator must ensure that it can afford to maintain the retirement village property.
- (2) The operator must report to the annual general meeting about how it proposes to pay for the maintenance and **periodic upgrading of retirement village property**. This information must include the operator's responsibilities for the costs of maintaining the residential units. The operator is solely responsible for *the cost of any periodic upgrading and/or betterment and will not be able to claim any contribution from residents for this purpose.*
- (3) The operator must consult all residents in writing if the proposal for funding the costs of maintenance will, or may, have a material impact on residents' occupancy or their ability to pay for services and facilities in the retirement village. ***Right 3, Code of Residents' Rights***
- (4) ~~Delete this sub-clause. If the operator requires residents to contribute to the funding of long term maintenance and replacement of retirement village property. All monies contributed by residents for that purpose must be kept in a separate bank account. This designated bank account should be named 'Residents' Contribution to Maintenance Account'. The account must only be used to hold residents' contributions to long term maintenance.~~
- (5) ~~Delete this sub-clause All deposits, including interest, in the maintenance account must stay in the account until they are used to pay maintenance costs as outlined in the maintenance agreement and the long term maintenance plan as approved annually by residents during an annual meeting called for this purpose.~~
- (6) *Funding for all maintenance, upgrading or betterment of the outside of residential units and of village property shall not apply to residents where it is a capital improvement and/or betterment, neither in common areas eg community facilities, or to changes to building structures. Such costs are to be funded from the Deferred Management Fee. Refer clause 2 Definition of Outgoings.*

Resident Proposals for Change

3. Handrails within units, chattels / fixtures and liability (clause 17)

- Increased entry age – and resulting need to cater for
- Cost shall be borne by operator

Resident Proposals for Change *Wording in bold italics are new proposals*

Clause 16 Safety and Security Processes, Procedures and Systems

New Clause 17(2) Handrails

- *Operators shall be obliged to install shower and toilet handrails in each new residential unit and in any residential unit build before this change came into effect, when so requested / needs-assessed (?) by any current resident. Residents may also request handrails necessary in other areas of the village where it may contribute to the health and safety of residents in general. The cost of handrails shall be borne by the operator and may not be recouped from a resident.*

Resident Proposals for Change

4. Residents' committee powers / representative standing (clause 30)

- 2017 Code changes improved process
- Formal Disputes – status and formality
- Disputes Panel – jurisdiction

Resident Proposals for Change *Wording in bold italics are new proposals*

- Clause 30. Residents Committee

Amend 30 (1) Substitute new wording

- *Resident Committees, elected by the residents, should be formed in all villages, if possible, and agree on their own rules for the running of the committee. The committee may be mandated as the body to negotiate and consult with the Operator about matters affecting residents, particularly village fees and general matters relating to the operation of a village. The Committee shall report their actions at a subsequent meeting of residents.*

The Committee may initiate and continue any disputes provisions on behalf of an individual or group of residents, when so mandated by the individual or group.

- (c) ***Meetings of residents shall be called in writing with a minimum 21 days' notice.***

Resident Proposals for Change –

5. Timeline for inspections and refurbishment on termination (clause 46)

- Inspection after termination
- Maintenance exceeding fair wear and tear

Resident Proposals for Change *Wording in bold italics are new proposals*

- **Clause 46. Resident's Right to Terminate the Occupational Rights Agreement**

1. Present sub clause
2. *The Occupational Rights Agreement shall terminate when the resident vacates the premises after a duly issued notice of termination. At that time there shall be an inspection to agree on the state of the property and confirm if any maintenance is required that exceeds fair wear and tear. The key/s shall be returned to the Operator.*

Resident Proposals for Change –

6. Increased share of capital gain in insurance situations (clause 47)

- Resident out of pocket
- Transfer to another unit
- Deemed termination by operator

Resident Proposals for Change *Wording in bold italics are new proposals*

- Clause 47. Grounds for termination if the unit is damaged or destroyed through no fault

Change clause 47(2)(e)

- If the occupation right agreement is terminated in these circumstances, the repayment to the resident will be calculated in accordance with the occupation right agreement.
- The repayment must be an amount at least equal *the purchase price of the occupational right of the unit immediately before the destruction, as determined by a registered valuer if need be, and not less than the capital sum paid by the resident, less any charges owed to the operator by the resident under the occupation right agreement.* Those charges may not include any fixed deduction.
- The operator and resident may agree a higher repayment amount in the occupation right agreement.

Changes to clause 47(5)

- If the resident does not accept an option to transfer to another unit, the occupation right agreement will be treated as if it has been terminated by the ~~resident and for the avoidance of doubt~~ operator and the payment provisions in clause 47(2)(e) of this Code of Practice shall ~~not~~ also apply.

Resident Proposals for Change –

7. Capital repayments when resident terminates distinct from when operator terminates

A. Compulsory repayment times (clauses 51-53)

B. Ongoing charge and capital loss (clause 54)

- Capital repayment, unfair results – practical examples
- Repayment within reasonable time frame
- Ongoing weekly fees
- Capital loss not included in ORAs after September 2006

Resident Proposals for Change *Wording in bold italics are new proposals*

- Clause 49. Payment on termination

- (4) If the operator terminates a resident's occupation right agreement the operator must, within five working days of the date on which the termination takes effect, pay all sums due to the resident.

~~Clause 53 of this Code of Practice~~

51 Delete

52 Delete

53 Delete

Resident Proposals for Change *Wording in bold italics are new proposals*

Clause 54. Payment due to the resident on termination or end of occupation

- Charges for personal services

54(1) The operator shall stop charging a resident for personal services on the date the resident stops living permanently in the residential unit.

- Charges for outgoings

54(2) The charges for outgoings shall cease on the date of termination of the Occupational Rights Agreement.

54(3) No further costs shall accrue to the past licence holder.

54(4) No capital loss on marketing the new licence shall be claimed by the Operator.

54(5) The Operator shall, within three (?) months of the date on which the termination takes effect, pay all sums due under the ORA to the resident.

54(6) Should the Operator fail to pay any amount on due date the Operator shall also be liable for interest on any outstanding amount calculated at a rate, which shall be equal to the Use of Money Interest charged by Inland Revenue from time to time, and compounded monthly from the due date.

Resident Proposals for Change *Wording in bold italics are new proposals*

Clause 54. Payment due to the Resident on Termination or End of Occupation

- Fixed Deductions
- *(Fixed deductions are also known as a facilities fee, village contribution, or deferred management fee).*
- 54(7) These fixed deduction clauses only apply to contracts entered into after 25 September 2006.
- 54(8) The fixed deduction must not accrue past the date of termination. ~~which the resident is paid the amount payable to them on termination of the agreement.~~
- 54(9) Details of fixed deductions must be set out in the disclosure statement.
- *Delete existing sub clause 6*

Resident Proposals for Change

Wording in bold italics are new proposals

Clause 54. Payment due to The Resident on Termination or End of Occupation

- Note: Maintain and amend existing sub clauses 7 to 13, as follows:

- Payment after damage or destruction of the residential unit.

9 (Was existing sub clause 7)

10 (Was sub clause 8)

11 (Was sub clause 9)

12 (Was sub clause 10). While the Operator is providing temporary accommodation to the resident, the Operator may charge for personal services and outgoings relating to that temporary accommodation, *provided that such charge shall not exceed the weekly fee payable under the **parties' Occupational Rights Agreement*** and fixed deductions charged to the resident under the Occupational Rights Agreement may continue to accrue or amortise to the Operator.

13 (Was sub clause 11)

14 (Was sub clause 12)

15 (Was sub clause 13)

16 If the Operator decides not to repair or replace the unit, the resident shall also be compensated for all reasonable costs incurred and damages suffered to relocate to suitable alternative accommodation.

- No-fault exit situations

- 17 Compensation should village be destroyed (New Clause)

In the event of a complete or partial destruction of a village or unit caused by a disaster (e.g. earthquake/fire/flood) and not replaced by the operator, the amount refunded must be calculated in accordance with the provisions set-out in clause 47(2)(e) of this Code of Practice.

Resident Proposals for Change –

8. Time for informing residents before AGM. Voting processes for matters decided by residents (clause 28-29)

- Information on Long Term Maintenance(LTM) / and LTM plans
- Resident committees, elected by residents, formed in all villages if possible

Resident Proposals for Change *Wording in bold italics are new proposals*

Clause 28. Residents Participation in Decision Making

Operator must consult residents

2 (a) as required in the Code of Residents' Rights and the Occupational Rights Agreement. Right 3, Code of Resident's Rights.

(b) about the content of any proposed rules if not already established by the Operator, or any proposed Amendment or addition to the existing rules by the operator

(c) *any meeting of residents called by the Operator or the Statutory Supervisor, shall give residents at least 21 days written notice.*

- Clause 29. Notifying Residents of Information about the Retirement Village
- Add this clause 29(2). Audited Accounts of Company/Trust owning Village/s

Prior to each annual meeting of village residents conducted by the Statutory Supervisor/Village owner,

- *an audited set of accounts of the company,*
- *details of all long term maintenance budgeted for coming financial period and reasons for any proposed deviation from the LTMP,*
- *and details of any other proposals that may affect the normal outgoings,*

shall be made available for residents' perusal at least 21 days prior to the meeting to provide opportunity for residents to prepare for the upcoming meeting.

A resident or a residents' committee may submit questions relating to any aspect of the audited accounts and proposals to the operator's accountant/auditor and/or the operator, not later than 10 days prior to the said meeting, which must be responded to in writing on or before the meeting date.

Demand for products that support independent living

New types of housing/housing provision

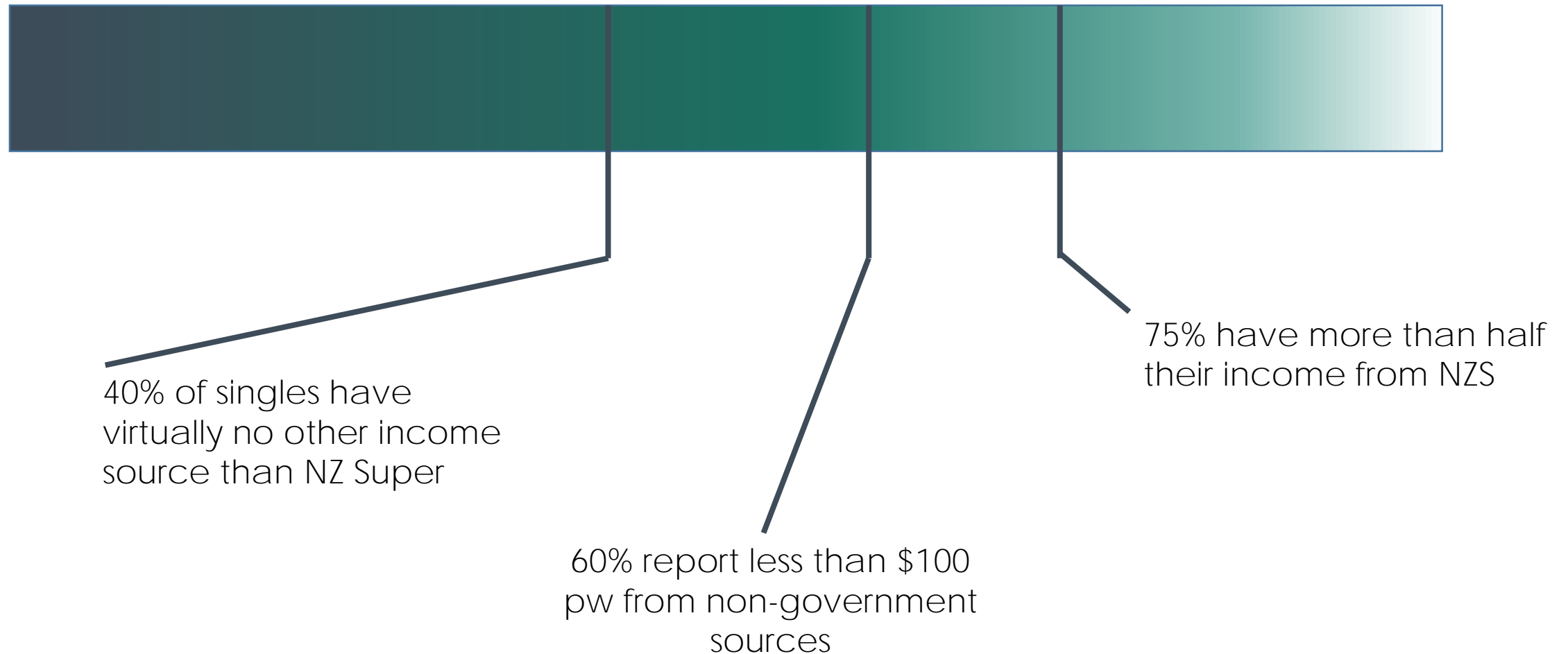
Increase in entrepreneurship by older people

Workforce shortages and age-friendly worker policies

How will
ageing
society
change the
market?

Source: Smith and Longlands, Exploring the opportunities and challenges of an ageing population, CLES

65+ are very dependent on superannuation, especially singles



Home ownership trends for 65+

Since the mid 1990s a downward trend in the proportion of homeowners aged 65+ whose dwellings are mortgage-free

Mid 1990s – 83% mortgage-free

Mid 2000s – 78% mortgage-free

Mid 2010s – 72% mortgage-free

Retirement villages' contribution

John Collyns, Executive Director



Objectives of the PwC Report

Estimate RV size and contribution to the economy through:

- The housing stock
- Employment impacts
- Gross domestic product (both locally and nationally)

Copies of the full report available on RVA website :

www.retirementvillages.org.nz

Methodology

- All RVA 360 village members invited to take part (96% of the total registered RV sector).
- Replies received from 213 villages:

0 – 50 = 94

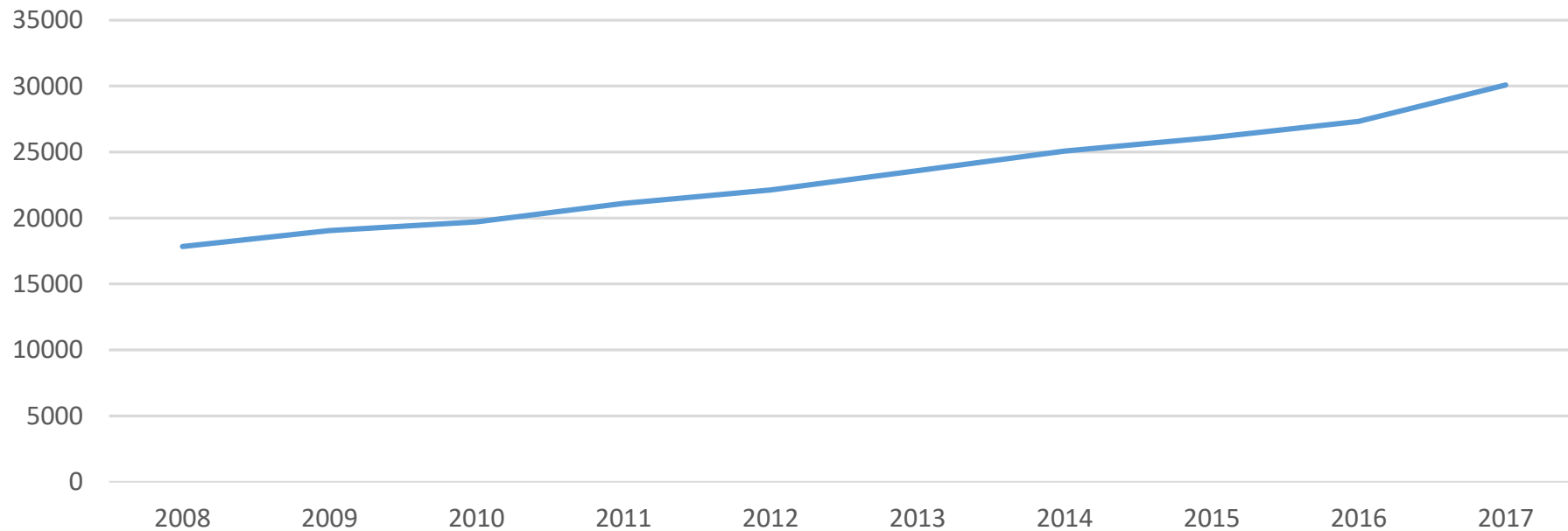
51-100 = 46

101-200 = 45

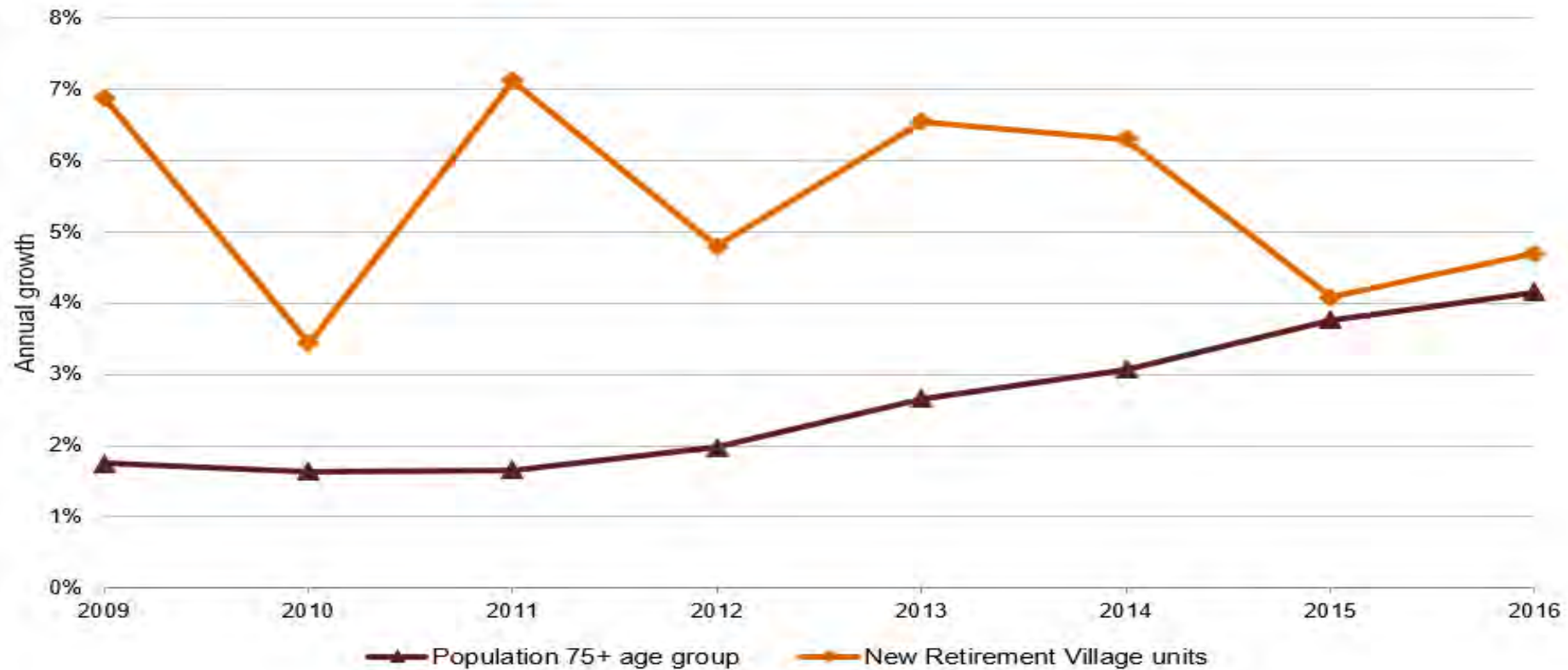
200+ = 28

- Questions covered unit numbers, employment, income and expenses for the last five financial years (2013 – 2017)
- Average metrics calculated across four categories of village size
- Other data drawn from Statistics NZ, valuers' reports (JLL and CBRE) and RVA annual reports

RV unit growth 2008 - 2017



RV unit growth v 75+ population growth 2009 - 2016



Density of RV housing

- Auckland-based villages = 1 unit / 164 m² 1 resident / 127 m²
 - Other villages NZ-wide = 1 unit / 273 m² 1 resident / 208 m²
-

- 200+ units = 1 unit / 152 m² 1 resident / 117 m²
- 101-200 units = 1 unit / 197m² 1 resident / 152 m²
- 51 – 100 units = 1 unit / 191 m² 1 resident / 151 m²

Low density
housing

Auckland Unitary Plan single house zone

- One dwelling per **600** square metres
- Assumed one occupant per **222** square metres

Auckland Unitary Plan mixed housing suburban zone

- One dwelling per **300 - 400** square metres
- Assumed one occupant per **111 - 148** square metres

Auckland Unitary Plan mixed housing urban zone

- One dwelling per **250 - 300** square metres
- Assumed one occupant per **93 - 130** square metres

Average density metrics from Auckland-based villages

- One dwelling per **164** square metres
- Assumed one occupant per **127** square metres

Density metrics from large (200+ m²) Auckland-based villages

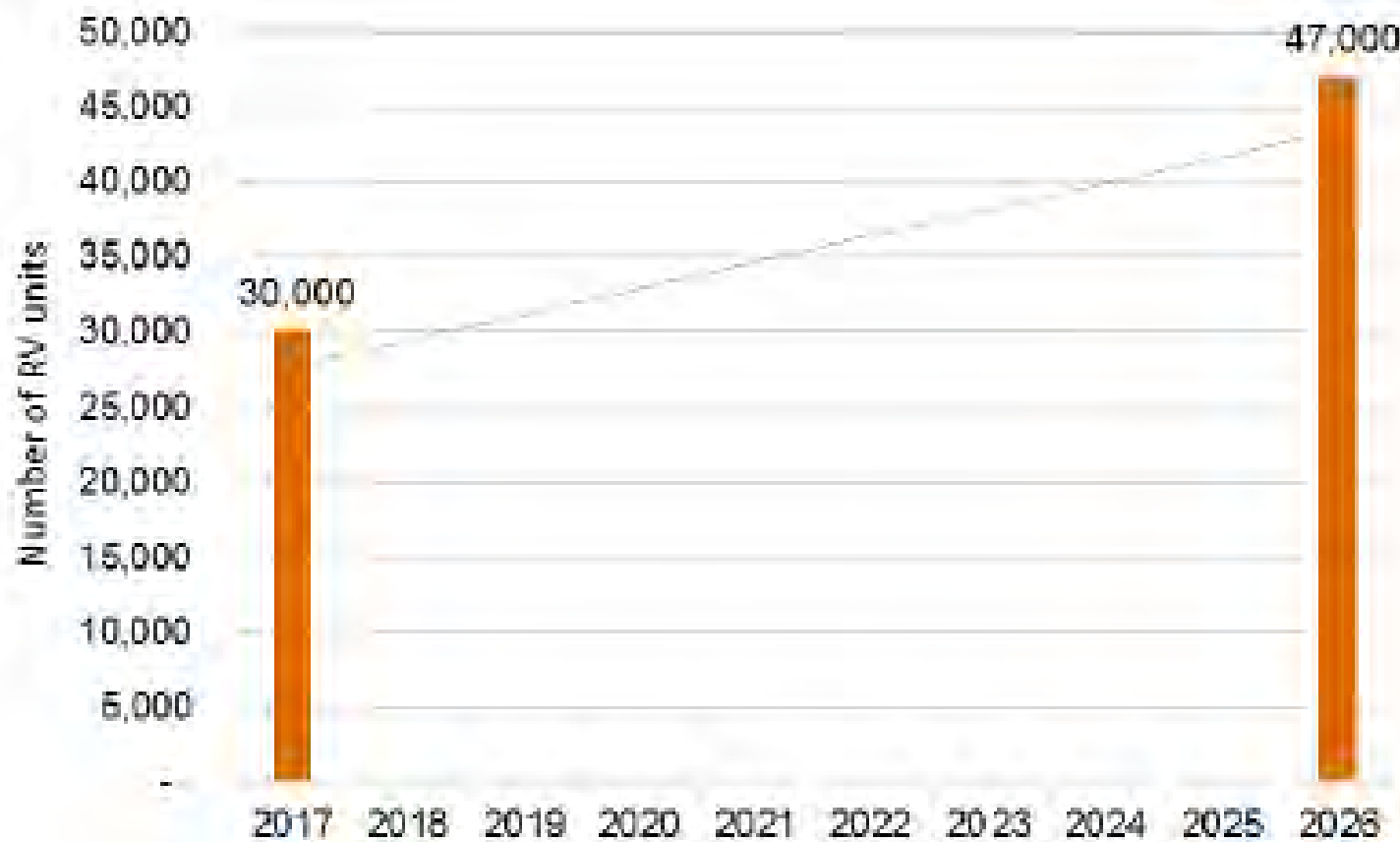
- One dwelling per **152** square metres
- Assumed one occupant per **117** square metres

Auckland Unitary Plan terrace housing and apartment zone

- Objective is to achieve high-density urban living that increases housing capacity
- Applies to areas with planned urban built character of predominantly five, six, or seven storey buildings
- We can assume a significantly higher level of density would be achieved here compared with the other housing zones in the Unitary Plan

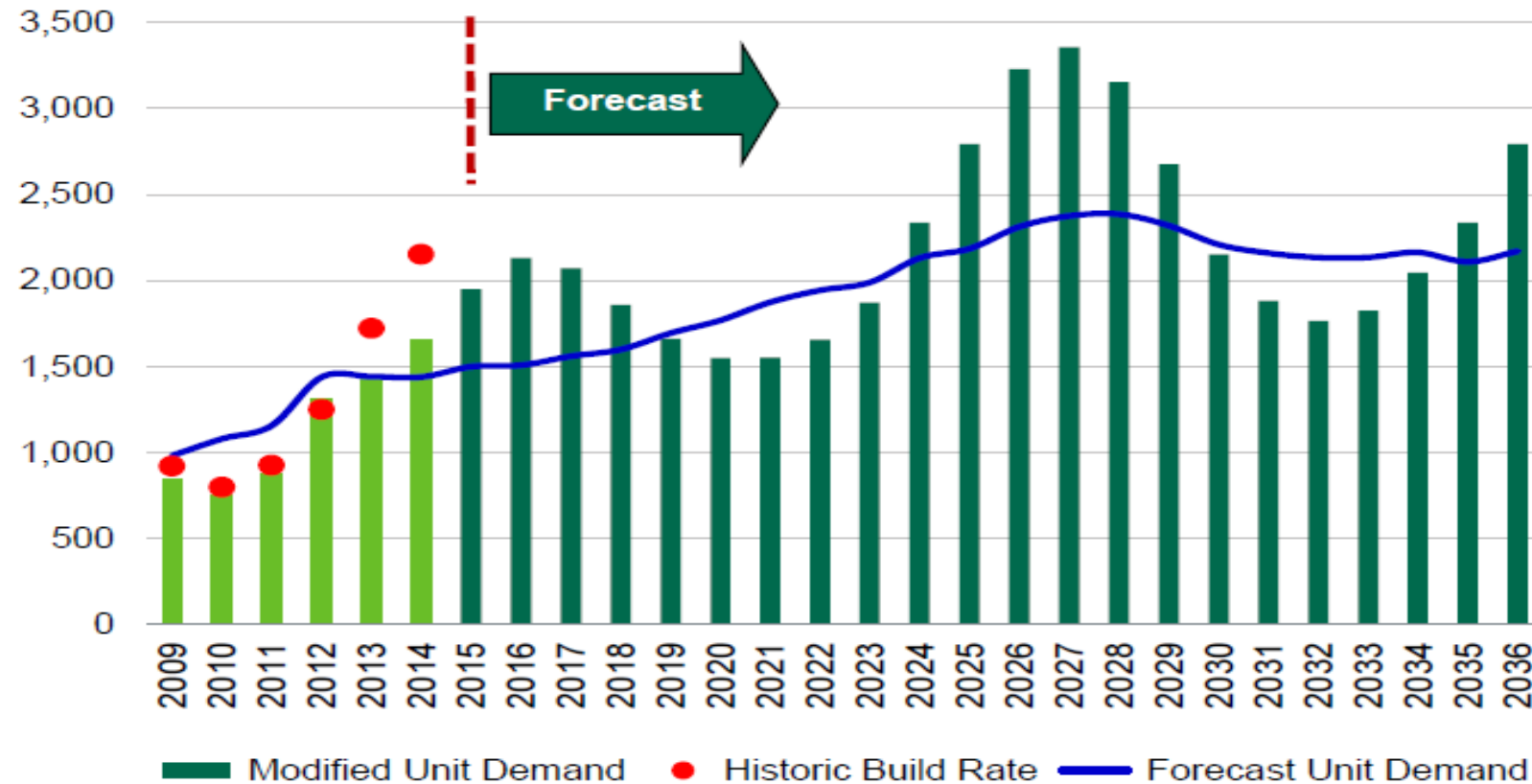
High density
housing

Development pipeline



Population growth and unit demand

New Zealand Forecast Average Net Unit Demand Per Annum



NB: Net Unit Demand excludes any allowance for resale stock

Employment in the sector

Employment created

by retirement village
industry in 2017



GDP contribution



Value added from RV construction

Activity	Direct \$m	Indirect \$m	Total \$m
Scientific, architectural, engineering	36.4	21.0	57.4
Construction services	12.9	11.0	23.9
Residential building trades	92.9	261.1	354.0
Heavy & civil engineering construction	14.0	21.0	35.0
Furniture, electrical and hardware retail	6.5	3.6	10.0
Totals	162.6	317.7	480.4

Each new 250-**unit village** contributes ...

- \$4.8 million in engineering, quantity surveying, architectural and related services
 - 44 engineers and related FTE
- \$13.9 million in building and related trades
 - 230 builders and related trades
- \$1.8 million in civil works, drainage and road construction
 - 15 labourers
- \$0.9 million in furniture, fittings, equipment and installation
 - 14 FTEs in furniture manufacture and equipment installation

Challenges ahead?

Labour shortages, our ageing workforce and dependence on immigration:

- Does this present a risk to RV sector development and if yes, what are possible scenarios/solutions?

Decline in home ownership:

- Can this affect long-term RV demand?
- Will poverty and hardship rates start to rise along with rise of older people still paying a mortgage?
- Will this result in the development of new aged housing models?

Dependency on Superannuation for current 65+:

- 75% of 65+ rely on super for > 50% of their income
- 40% of singles 65+ rely on super only



What else might we need to prepare for in the future?

Negative publicity about the ORA / DMF model:

- What types of changes to the ORA model have been happening recently or are anticipated over the next 10 years?

Possible changes in aged care funding:

- How would changes in aged care funding/legislation affect the RV sector?



Monitoring the Effectiveness of Statutory Supervision

“Existing regulatory regime is ensuring residents are adequately protected through external oversight of the conditions of entry into, and continuing operations of, retirement villages.”

- Supervisors have sufficient powers where an operator may be non-compliant.
- Generally consistent approaches to types of financial analysis conducted. Varying levels of financial reporting back to residents.
- Approximately 25-30% of villages are managed on a consolidated financial basis.
- Number of front-line individuals responsible for relationship management is small in the context of industry expansion.



Monitoring the Effectiveness of Statutory Supervision

- No evidence of increased compliance costs as a result of 2016 Code variations (complaint procedure), or from consolidation of supervisors.
- Training and professional development of supervisors is an FMA consideration.
- Most (but not all) were comfortable with the Registrar's due diligence approach for granting exemptions from having a supervisor.
- Licensing costs and requirements create a positive barrier to entry and set robust supervision standards.

Panel: Monitoring of Statutory Supervision

Resident Concerns

1. *Residents can not identify the proportion of weekly fees being spent on operating expenses v. capital improvements*
2. *Are supervisors querying auditors and getting enough info from operators?*
3. *No security for resident capital (price paid less DMF) if operator goes into receivership.*

Panel Observation

- Budget consultation covers this in resident-funded villages. Regulation 9 reports should show this.
- Info differs depending on type of village
- TCA Deed of Supervision (clause 11.2) allows us to request wide range of additional information.
- Supervisors make regular enquires to auditors
- Supervisors do hold first ranking encumbrance over village land, additional to s21 Memorial
- Supervisors often have a General Security Agreement(GSA) securing credit arrangements registered on the Personal Property Securities Register.
- Three examples of villages in receivership / liquidation over last eight years. Residents did not lose their capital, the villages continued as going concerns.

Recommendations

Issue

- *Forecast statements given to resident, annual budget type of reporting - per Regulation 9 - must include forecasting capital repayments in advance, which distorts expense calculation.*
- *No positive obligation on auditor to alert supervisor to issues. Custom for auditors to send supervisor a letter saying there is nothing to note.*

Possible Solutions

- Amend Regulation 9(3) to remove capital repayments from those forecasts.
- Align Retirement Villages Act to Financial Market Conduct Act requirements on auditors –
 - Auditors to have positive disclosure obligations to supervisors.
 - *Could achieve by adding a power at end of section 47 RV Act*

Recommendations

Issue

- *Nature of securities a supervisor uses to protect resident interests are not specified in the Act.*
- *Choice is left to supervisor through contractual arrangements.*
- *Some types of security hinder supervisor ability to appoint receiver quickly or cost-effectively.*

Possible Solutions

- Amend RV Act (s43?) to add powers for supervisor to:
 - choose appropriate form of security; and to appoint a receiver.

Panel: Monitoring of Statutory Supervision

Resident Concerns

- 1. Time for repayment of resident capital.*
- 2. Ensuring resale process is being carried out in residents' interests*

Panel Observation

- Compulsory buybacks available at few villages. Supervisors review financial information and assess operator capacity to pay.
- Compulsory buybacks is a policy argument, would require law change, create barriers to entry, likely remove some types of operator, lead to less choice, less competition and less supply, higher prices.
- Pre-purchase disclosure and advice ensures risks are understood.
- Resale process is operator responsibility. Supervisors will take steps to ensure operator compliance. Residents may file complaints.

Panel: Monitoring of Statutory Supervision

Resident Concerns

1. *Risk of inadequate operator funding for maintenance / inadequate LTMP, especially in resident-funded villages*

Panel Observation

- Rarely a problem
- TCA working on ways supervisors can oversee preparation and review of LTMP
- TCA creating guidelines / checklists for supervisors.
- Supervisors have general power in Deed of Supervision (clause 19.2) to appoint a range of expert assistance

Recommendations

Issue

- *Risk of inadequate operator funding for maintenance / inadequate LTMP*
- *Scope to improve the way supervisors oversee preparation and adequacy of LTMP.*

Possible Solutions

- Vary Code of Practice (clause 47.1) with a clear minimum standard for operator's to engage a quantity surveyor (or suitable agent) to review LTMP at least every three years and ensure LTM can be funded.
 - Or could amend regulation 47 so Deed of Supervision positively requires supervisor to ensure operator's LTMP is 'commercially robust' (or similar) and reviewed at least every three years
- TCA guidance notes and checklists for supervisors, TCA training session at RVA conference
- CFFC with support from RVA and TCA could publish info on what a good LTMP looks like

Recommendations

Further Observation

- *Residents in exempt villages may be more vulnerable as operator business situation changes.*
- *Purposes of the Act (section 3) include protecting resident and intending resident interests through external oversight.*
- *Exemption from having a supervisor may facilitate reductions in costs of compliance.*
- *Around 33 exempt villages*

Possible Solutions

- Amend Act to update criteria for granting exemptions from supervision – Reg 55
- Tighten monitoring requirements on Registrar regarding exempted villages



CFFC

Building wealthy lives

Drinks