

A Resident Response to Review of the Retirement Villages Act 1986 Issues Paper

Confidentiality: My name is to remain confidential but the contents, except the stories, can be in the public domain.

Key Issues

1. The reforms should reflect **better recognition of resident's rights, freedoms and protections**. The current Act focuses on protection for the Owners and Operators over residents.
2. With the current system Operators can take advantage of a **vulnerable group**, being senior citizens, who may not be as able to understand contracts and stand up for their rights.
3. The new Act should recognise **residents as major stakeholders** (funding the maintenance and services) in their villages and more like partners of the operator than subordinates. This may require changes to the power of the Residents Committees.
4. Generally there should be **more regulation** of retirement villages and their managers.
5. The **complexity of the Act** is reflected in the complexity of residents' contracts. Simplifying the Act could lead to simpler contracts offering better protection for residents and less room for debate and conflict.

CAV Guidelines (listed below) already provide advice for good practice and following these guidelines would be a good starting point before changes are made to the Act. There is a recommendation from the parliamentary inquiry that the first of these should be given to potential residents (see Recommendation 3 below). Could the other guidelines be mandatory for good practice as well? Standards and ethics are embedded in these guidelines.

1. Guide to choosing and living in a retirement village
2. Retirement villages good practice to address key issues: a guide for residents
3. Internal dispute resolution guidelines for retirement village owners and managers

Parliamentary Inquiry recommendations

I agree with Recommendations 2-15. In particular I would like to highlight the following:

Recommendation 2: Greater consumer protection

Recommendation 3: Mandated provision of the CAV information booklet to potential residents

Recommendation 6: Defining responsibility for repairs and maintenance and reasonable time frames

Recommendation 11: Mandatory accreditation for all retirement housing providers

Recommendation 12: Minimum certificate level to RV management courses

Recommendation 13: Better design for people to age in place

Recommendation 14: Requirement for RV's to report on compliance with maintenance plans

Recommendation 15: Provision for a binding resolution of disputes through an ombudsman

Part 2: The regulatory and policy framework

The Purpose of the Retirement Villages Act 1986

Given that the stated purpose of the RV Act is to clarify and protect the rights of persons who live in, or wish to live in, retirement villages the question of whether it does this adequately has to be asked. My answer is NO, it does not and my submission addresses some of the ways that it falls short.

Question 3: Yes, it should remain as stated above but offer a great deal more protection for residents.

Part 4: Living in a Retirement Village

Manager qualifications and training

The role of RV manager is a complex one with responsibilities including the following:

- building maintenance,
- financial management,
- employing and supervising staff,
- understanding and responding to the needs of elderly residents,
- an understanding of the RV Act, and
- a range of complex interpersonal relationships.

It goes without saying that the degree of happiness of residents, and satisfaction with the services provided, is dependent upon good management. It is clear that new managers need training in areas where they have not had prior experience. As the Operator (in an Owner-Operator model) selects and employs the manager, they must take responsibility for filling the gaps in background of any new manager at the time of their induction and with ongoing training and supervision. This appears to be an area neglected by many Operators as there are no requirements for them to provide this and it could be costly.

The story in Part 6 demonstrates the consequences of a manager not understanding the Act and his role in dispute resolution. His lack of training for the role had serious consequences for one resident and created conflict in the community.

I understand that there are very limited courses available currently and, therefore, new courses should be developed to fill the void.

Question 20 By what alternative means could the standards and quality of services provided by retirement villages be improved?

1. An ombudsman or similar with wide powers;
2. Mandatory training for village managers (and others) at Certificate 4 level followed by continuous professional development;
3. A charter of residents rights, freedoms and protections;
4. A code of ethics; and
5. Mandatory minimum standards.

Residents Committees

Question 25 Is the current role of the residents committee appropriate and are its powers adequate?

No on both counts. Currently the residents committee has little or no power. In our village we were informed by the operator that we could make recommendations only, and had no power to make decisions. If Residents Committees (RC) were to have more power, it would be critical that members represent residents (as opposed to having personal agendas) and that the RC functions efficiently and effectively.





As major stakeholders (funding maintenance and services through levies) this situation is intolerable. Here are some possible solutions:

1. Adopting the Owners Corporation Act model (the resident body has powers)
2. Giving the resident body the power to make rules governing the operation of the committee.
3. Giving the resident body the right to make decisions as a committee of the whole under an independent chair if necessary.

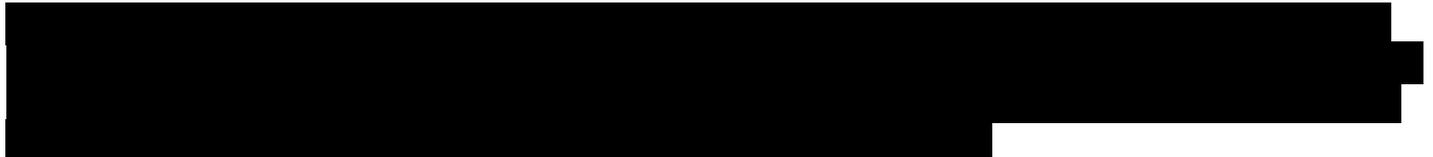
Question 28 Should RV owner's and manger's involvement in meetings of the residents committees be prohibited unless invited by the committee?

Yes, this is already the case but the Act does not explicitly say so. An explicit provision would help residents committees better assert their rights.

Part 6: Dispute Resolution

Internal Dispute Resolution

- *Introduce a definition of 'complaint' into the RV Act, and clarify requirements around recording complaints*
In the definition of a complaint, the distinction between a complaint/dispute as opposed to a 'request for action' should be made clear. Also some RV internal resolution protocols use complaint/dispute interchangeably. Should they be distinguished from one another?
 - *Introduce a requirement that any dispute resolution body considering a RV dispute takes into account the extent to which the good practice protocols have been followed.*
The good practice protocols are an excellent guide for managers and residents and should be followed. If this can be legislated or overseen it would bring greater clarity and ease in resolving complaints. As suggested, requiring any external dispute resolution body to consider the extent to which the good practice protocols have been followed could encourage or ensure operators utilize the protocols in managing issues in the village.
 - *Clarify in legislation the avenues for directing complaints about village managers*
The suggestion that an alternative person for residents to contact if their complaint concerns the village manager is essential for residents to get a fair hearing.
 - *Remove the role of residents committees in resident dispute mediation*
I agree with this proposal as impartiality could be an issue as well as generating conflict amongst the community.
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Education as part of the solution

This experience raised issues for me regarding the need for education for residents and managers in the CAV guidelines. Recommendation 3 of the Parliamentary Inquiry requiring RV operators provide a copy of the CAV booklet (already available) to potential resident, would assist in avoiding this sort of experience for residents. I would also recommend ongoing education regarding good practice for resolving disputes.

External Dispute Resolution

Question 49 What do you think is the best means to achieve low-cost, timely and binding resolution of disputes in the retirement village sector?

An independent expert providing a free service for residents to investigate and adjudicate would be desirable. This dedicated service could reduce the complexities of the current options and offer more timely and binding resolution of disputes.

Part 7: Enforcement

Question 50 Are the enforcement provisions incorporated into the RV Act sufficient?

No The assumption that residents can take the necessary action to enforce the terms of their contracts against village operators does not take into account the huge power imbalance and the lack of financial and emotional resources available to the majority of village residents.

Question 51 Should the director of CAV be given additional powers and enforcement options available under the Australian Consumer Law and Fair Trading Act 2012 (ACLFTA)? If so, why? If not, why not?

Yes Residents find it easier to assert their ACL rights than their RV Act or Owners Corporations Act rights. An ombudsman or the like would help individuals assert their ACL rights. For more systemic problems a more active role for CAV would help.