

# Review of the *Retirement Villages Act 1986*

## Options Paper survey



## Overview

Retirement villages provide a form of retirement living in a community setting. The retirement living market is evolving, driven by a number of economic and social factors including an ageing population, changing expectations and needs of retirees, increasing land values and reducing housing affordability.

The *Retirement Villages Act 1986* (the RV Act) regulates the contractual relationship between retirement villages and their residents. While a number of significant reforms have been introduced into the RV Act since 1986 addressing particular issues that have arisen in the retirement village market, the RV Act has not been the subject of a comprehensive review since 2004. The review of the RV Act provides Victorians with a say on how it should look in the future.

## Options Paper

The purpose of the Options Paper is to outline potential changes that could be made to the RV Act, the regulations that accompany the RV Act or broader information and education initiatives, and to obtain stakeholder views on these identified reform options.

Consultation questions are included to help guide stakeholders in considering the options identified.

Development of the Options Paper has been informed by stakeholder feedback in response to the October 2019 Issues Paper and the November 2019 Community Forums,<sup>1</sup> as well as independent research and analysis commissioned by the Department of Justice and Community Safety.

This paper responds to key identified issues that have the potential to cause harm to individuals and communities and considers a range of options to mitigate these harms.

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<sup>1</sup> *Retirement Villages Act 1986* - Stage One Consultation  
<[engage.vic.gov.au/retirementvillagesact/retirement-villages-act-198-stage-one-consultation](https://engage.vic.gov.au/retirementvillagesact/retirement-villages-act-198-stage-one-consultation)>

## How to participate in the second stage of consultation

You can provide your feedback in one of two ways:

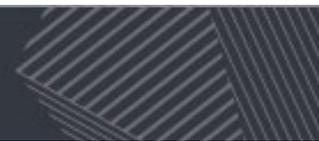
1. **Respond to our Options Paper.** The paper poses questions that you can respond to or use as a guide to write your submission. You can:
  - upload your submission document(s) via Engage Victoria ([engage.vic.gov.au/retirementvillagesact](https://engage.vic.gov.au/retirementvillagesact))
  - email to [rvreview@justice.vic.gov.au](mailto:rvreview@justice.vic.gov.au)
  - send in the mail to:  
**Retirement Villages Act Review**  
Consumer Affairs Victoria  
GPO Box 12  
Melbourne VIC 3001
2. **Complete our survey.** The survey allows participants to read a summary of each issue presented in the Options Paper and provide their response.

## Survey

We have created a survey reflecting the themes and questions asked within the Options Paper.

Read through each section and provide your feedback. You are not required to provide a response to every option.

**Submissions close 11.59pm 14 May 2021 (extended).**



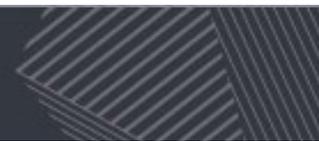
## How should the *Retirement Villages Act 1986* be changed to support well-run retirement villages?

The *Retirement Villages Act 1986* (the RV Act) excludes some types of retirement housing. In addition, the RV Act does not detail all the rights and obligations of residents and operators.

In your survey response, please tell us how the scope of the RV Act should be changed. You might consider:

- how we can clarify the types of retirement housing covered (and not covered) by the RV Act
- how we can clarify the objectives of the RV Act.

**Please provide your feedback on how the scope of the RV Act could change.**



## **What information is needed to make good decisions?**

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Moving into a retirement village is a major life event. Prospective residents and their families need the right information at an appropriate time to make good decisions.

The RV regulations require village operators to provide prospective residents with a range of information, however some residents have reported that the information is not easy to understand.

In your survey response please consider:

- what information people need to help them decide whether they want to live in a retirement village
- when you think the person needs this information and how best to provide it, such as online or in advertising brochures.

**Please provide your feedback on the information provided to prospective residents**



## Paying for a retirement village place

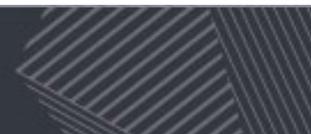
There are several different ways to pay to live in a retirement village. This currently varies across different residence contracts. Some residents pay an amount to enter a village (commonly known as an in-going contribution) that is then returned when their residence is re-leased or re-sold, minus several different fees.

One of these fees can be a deferred management (DMF). Some residents have found that the contractual basis for the DMF makes it difficult to calculate and compare across villages. Some residents found that the DMF was higher than initially expected.

In your survey response please tell us about your experience in paying to live in a retirement village. You might consider:

- whether payment options are clearly explained and if not, how this can be done better.
- whether you understand what a DMF is and how it might be explained?
- if payment methods should have a review period.

**Please provide your feedback on ways to pay to live in a retirement village**



## Understanding the contract

Some residents and their families find residence and management contracts too complex.

In your survey response, we would like to know how you think residence and management contracts can be further improved. Please think about:

- the language the contracts are written in
- whether a professional service could help you understand the contract
- whether prospective residents should be required to get legal advice before signing a contract.

**Please provide your feedback about residence and management contracts**



## Repair and maintenance fees

Residents generally pay a regular maintenance fee to ensure that the retirement village remains safe and age friendly. Some residents have reported that they are unclear who is responsible for repair and maintenance of units and common areas of a village.

In your survey response, we would like to know what you think about maintenance fees. You might like to consider:

- what you don't know about maintenance fees
- how the fees can be communicated more clearly.

**Please provide your feedback about maintenance fees.**

## Changing your mind about living in a retirement village

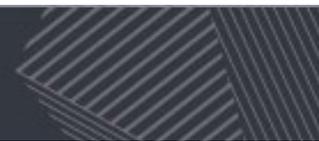
Entering a retirement village is a big financial and life decision. The RV Act gives prospective residents:

- 21 days to consider the contracts prior to signing (the consideration period)
- Three (3) business days after signing to change their mind (cooling-off period).

In your survey response, please tell us what you think about how prospective residents can be protected. You might consider:

- how well you understand the consideration and cooling-off periods
- whether a 'settling-in period' is required and how much time is required
- whether additional protections for prospective residents are required
- how we can balance resident protections with the needs of village operators.

**Please provide your feedback on protections for prospective residents**



## Leaving a retirement village

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### Ongoing charges

Village operators charge fees for services and maintenance to an outgoing resident until a new resident moves in.

Some residents have reported that, if there are delays in securing a new resident, ongoing charges can cause financial and emotional stress.

In your survey response please consider how long fees should be charged once a resident leaves a retirement village.

**Please provide your feedback on outgoing charges**



## Reinstatement and renovation costs

Reinstatement refers to a resident returning the residence to the same condition as when they entered the village, except for any previously agreed to works.

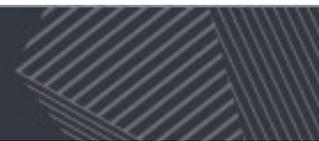
Renovation refers to improvements made to a residence beyond reinstatement works. Requirements for reinstatement and renovation are currently contractually based and not set out in the RV Act.

Some residents have reported that requirements to reinstate or renovate a residence are unclear, unfair and can create unexpected additional costs when leaving a village.

In your survey response, please consider:

- whether the RV Act should explain commonly used terms such as reinstatement and renovation works, and include a definition of fair wear and tear
- whether condition reports should be used when someone is moving into and out of a retirement village
- if and how the costs for renovation should be shared between residents and operators.

**Please provide your feedback on reinstatement and renovation costs**



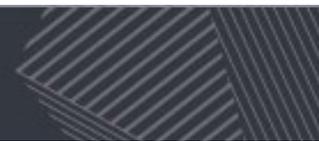
## Sale and re-leasing

Most residents are able to contribute to decisions about releasing or re-selling their residence. Depending on their contract, residents may be able to set the sale price and appoint a selling agent.

Generally, village operators also provide a range of sales-related information to residents. However, some residents report that they could benefit from further information during the sales process.

In your survey response, please provide your thoughts about the re-sale or re-lease process.

**Please provide your feedback on re-sale and re-leasing**



## Capital gains and losses

The RV Act does not currently regulate capital gains and losses, arrangements depend on an individual’s contract.

Some residents reported feeling disadvantaged by this, particularly if they do not receive any capital gains, or are responsible for absorbing capital losses.

In your survey response, please provide your thoughts about capital gains and losses.

**Please provide your feedback on capital gains and losses**



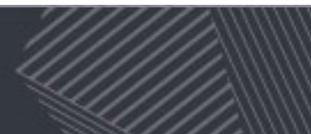
## Paying out exit entitlements

Residents leaving a retirement village may receive an exit entitlement. The amount of money received in an exit entitlement is generally calculated as the payment made when a resident moved in (also known as an in-going contribution), minus any fees and charges. This calculation (and the overall exit entitlement) will differ between contracts.

Residents who own their residence (under a strata title arrangement) usually receive their exit entitlement when their residence sells. If the sale of a residence is delayed, the exit entitlement repayment will also be delayed. Some residents and their families have reported that this has caused significant financial and emotional stress.

In your survey response, please contribute your thoughts on repayments of exit entitlements. You might like to consider whether residents should be repaid their exit entitlement if their residence has not sold and, if so, when should it be repaid.

**Please provide your feedback on exit entitlements**



## How are disputes resolved?

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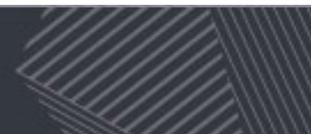
### Internal disputes

Disputes can happen in any community. In retirement villages, it is important that there is a simple and accessible way to resolve disputes so residents and operators can continue to live and work effectively.

In your survey response, please contribute your thoughts on how to manage disputes in retirement villages. You might like to consider:

- how to improve the existing internal dispute process
- what role residents' committees should play
- whether village operators should undertake special dispute resolution training
- if there should be a mandatory code for resolving internal disputes.

**Please provide your feedback on managing disputes internally**



## External disputes

External dispute resolution processes are important if internal processes cannot settle a matter. Residents currently view external dispute resolution processes as complex and expensive as the only way to achieve an enforceable outcome is through the court system.

In your survey response, please tell us how these matters should be resolved. You might like to consider:

- whether conciliation should be mandatory
- whether binding orders (a requirement on both parties) should be an outcome of conciliation.

**Please provide your feedback on external dispute resolution processes**



## What governance is needed for well-run retirement villages?

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### Rights and responsibilities

The RV Act does not provide residents and operators with a clear set of rights and responsibilities. Residents have called for greater recognition of their rights and suggested clarifying responsibilities may assist with dispute resolution.

In your survey response, please tell us how you think residents' rights can be better explained and recognised. You might like to comment on:

- whether the RV Act should include specific rights for residents
- whether there should be a mandatory code of conduct for operators.

**Please provide your feedback on residents' rights**



## Residents' committees

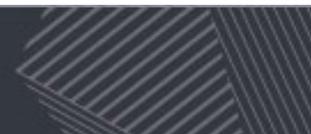
The RV Act enables residents' committees to be elected to represent the interests of residents in the village. Residents' committees may also act as a mediator in any dispute between residents.

Many residents say they do not have confidence in residents' committees and their ability to make impartial decisions.

In your survey response, please tell us how you think residents' committees could be improved. You might like to consider:

- the powers and responsibilities a residents' committee should have
- how village operators and managers can contribute to the committee
- how committee members are appointed and how long they should serve
- how the committee is run, including budgets and how the committee reports back to residents.

**Please provide your feedback on residents' committees**



## Staff qualifications and training

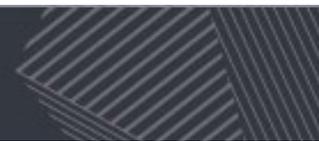
Currently, the RV Act does not require retirement village staff to have any particular education or training, although operators may have their own requirements.

Some residents have reported that the qualifications and skills of staff vary between villages and could be improved.

In your survey response, please comment on staff standards. You might like to consider:

- the types of training or qualifications required to work in a retirement village, and if the training or qualifications should be mandatory
- what should be considered when disqualifying someone from working in a retirement village
- whether a specific qualification should be created for retirement village managers.

**Please provide your feedback on staff standards**



## Village accreditation

The RV Act does not require a retirement village to be accredited. Some residents and operators have suggested that an accreditation scheme could improve standards across different villages.

In your survey response, please contribute your thoughts on retirement village accreditation. You might consider:

- whether an accreditation scheme should be mandatory
- the cost and practicality of introducing a mandatory accreditation scheme
- how a mandatory accreditation scheme might be developed and who should be involved.

**Please provide your feedback on retirement village accreditation**

## Industry ombudsman

Residents have supported creating a retirement village Ombudsman to provide independent advice and advocacy services.

In your survey response, please tell us how you think an Ombudsman could contribute to the retirement village sector. You might consider:

- information services, advice and referrals the Ombudsman might provide
- how the Ombudsman might help in resolving disputes
- whether the Ombudsman should be able to mandate conciliation and issue binding orders
- whether these services could be delivered through alternate means.

**Please provide your feedback on a retirement village Ombudsman**

## About you

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The following questions are all optional unless specifically indicated.

### Name and/or organisation

Please provide your name and/or organisation to help us identify your survey if you wish to access, change or withdraw it.

### Your email

Please provide your email if you would like us to send you a confirmation email and a copy of your survey. You can also provide your email (instead of your name) to identify your survey should you wish to follow up.

I agree to the Collection Notice (Required)

### How would you like your survey to be treated? (Required)

- You may publish my contribution including my name
- You may publish my contribution anonymously (any identifying information will be removed)
- Keep my contribution confidential (contribution will not be published)

### What best describes your interest and involvement in the retirement village sector?

- Current or former resident
- Friend or family member of a current or former resident
- Village owner, manager, staff or representative
- Advocacy organisation
- Other (please specify)

## Privacy and collection notice

This Review is being conducted by the Department of Justice and Community Safety. All references to 'us' or 'we' on this page are references to the department.

When making your submission you can provide personal details and information. This information will help us understand the context of your submission.

(continued on next page)

If you opt to provide your name or email address, we may use these details to identify your submission if you want to access it or make a correction.

You do not need to provide contact information. You can make a submission without providing this information. If you do provide this information, you can still opt for your submission to remain anonymous.

You have three choices in how we will treat your submission:

- published in whole or in part with your name and/or organisation
- published in whole or in part but without your name and/or organisation
- not published at all.

Submissions and comments may be subject to Freedom of Information and other laws. Submissions should not include any information which may identify third parties. We may redact or not publish submissions regarded as defamatory or discriminatory.

We will never publish your contact details. Your contact details will only be used for this consultation. Any submission published will have contact information such as email or address redacted.

We commit to protecting personal information provided by you under the principles of Victorian privacy laws.