

REVIEW OF THE RETIREMENT VILLAGES ACT 1986.

A submission from [REDACTED] One Asling Residents Association) Committee.

Background.

The [REDACTED] Village is owned and managed by [REDACTED] with residents occupying their units under a lease arrangement with the company.

The current One Asling Residents Association (OARA) Committee was elected for a one year term in August 2019.

This submission is from the chair of the OARA Committee; the responses to the questions posed will be limited to those topics relevant to the operation of this committee on which it can comment, since elected.

Part 4. Living in a retirement village.

4.1 : Governance of retirement Villages.

The current Commission reviewing Aged Care facilities has shown the need for the accreditation of support services that involve the elderly such as retirement villages, to be mandatory.

As set out in the discussion paper, the independent accreditation system in the U.K. and the Conduct and Code of Practice for Retirement Villages in South Australia and New Zealand are examples of how standards and accreditation could be implemented in the retirement village sector.

There also needs to be the ability for the relevant regulatory authority to enforce compliance with the relevant code.

4.1.2 Qualifications and training of managers.

The discussion paper refers to the “ lack of minimal training and ongoing professional development requirements for village managers and employees” and that the RV Act does not impose any other requirements on persons involved in retirement villages.

Retirement villages have a variety of accommodation options and contractual arrangements (ownership, leasing and others) but all have ever thing in common - a number of persons of older age living self managing and self supporting lifestyles , often referred to as “independent living”.

Residents strongly value their independence and the privacy of their accomodation and personal information .

Their premises should be treated as for any private free standing home and thus presents certain restraints on the way a village is managed .

This requires a particular skill set in interfacing with and relating to the residents of a retirement village, which differs from the care of persons in an Aged Care facility or in commercial accommodation settings.

It is therefor agreed that there there should be specific training requirements and ongoing professional development identified for those who manage and work in independent living units.

Question.21: “Should there be any additional limitations or requirements on persons who can be involved in promoting or operating retirement villages ?

- In light of the above comments, the answer would be yes.

Question 22: “What do you consider to be the benefits and costs of mandating training and professional development requirements for retirement village managers and employees?”

- The benefits would be considerable – the recognition of independent living and the support given to residents to maintain this independence and in the way staff relate to them, which would enhance their satisfaction with life within their village.
- It would avoid misunderstandings arising, such as to when staff can access a residents accommodation.
- It would also aid how dispute procedures are managed.
- It would also identify the importance of fostering communal living within the village where residents have the discretion as to those social activities they wish to join.
- It would be recognised that they should not be subject to commercial sales initiatives from external businesses.
- As many of these benefits are intangible in terms of their cost, it would be difficult to set out a cost- benefit implications as to training and professional development .

4.1.3: Residents Committees.

The Rules for the One Asling Residents Association Incorporated Certificate of Incorporation state that the Purposes of the Association are:

1. To represent the interest of all residents of the [REDACTED] Retirement Village.
2. To act in a proactive way , through consultation with management, to ensure the maintenance and improvement in lifestyle and well being of all residents of the Village.

Question 25.

“Is the current role of the residents committee appropriate and are its powers adequate?”

- The Association Rules referred to above state that subject to the Act, the Association has power to “do all things incidental or conducive to achieve its purposes” which appears to give fairly wide ranging responsibilities, rather than the “power” to do so.
- The Rules also state that “The Association may only exercise its powers and use its income and assure (including any surplus) for its purposes.” This is a definitive statement about its financial responsibilities as to residents financial contributions.

Question 26.:

“ Should residents committees have a role in dispute resolution involving resident to resident disputes ?”

- As discussed below, there would seem to be benefit in having a neutral person or agency in managing complaints, both between residents and a resident and the Village Manager. This would alleviate tensions between the parties concerned and

remove any feeling of bias and avoid any consequent ill feeling between the parties involved.

- But it would be important for the Residents Association to have reassurance that the resident/s involved have been treated fairly in the review process, and this could be achieved by the President of the Association sitting in on the review process as an observer.
- There should also be the right of a resident to have a Support Person (another resident) accompany them through the review.

Question 27.

“ Should residents Committees have the power to approve above- CPI increases in maintenance charges? If not, why not?

- The automatic application of the annual CPI indexation should not be a matter of contention ; however, if an above index increase is proposed, then the Residents Committee needs to hear the justification for the proposed increase. If it is not satisfied with the reasons given it should be able to appeal to a relevant arbitrator.

Question 28.

“ Should Retirement Village owners and managers involvement in meetings of the residents committee be prohibited unless invited by the Committee.

- The composition of the OARA Committee Rules state the Composition of the Committee consists of the President, Vice President, Secretary , Treasurer and up to six ordinary members.
- Hence, representatives of management are not identified as standing members of the Committee and thus would attend by invitation.
- The practice at the [REDACTED] is that the Village Manager is invited to attend to present the managers report together with any other Lendlease managers who would like to attend - as a standing invitation.
- The presence of managers is to be welcomed as often they often have a valuable and informative contribution to make to the discussions of the Committee. As chair of the meeting, I have asked to be informed in advance as to who may wish to attend and whether or not they wish to make a contribution – such as speaking to the annual update of the LTMP for the Village.
- There would however be rare occasions on which the Committee would wish to have a discussion on matters relating to an individual resident or to consider a complaints review or other in confidence matters, within the Committee itself. The local Committee’s Terms of Reference allow it to move into “Closed Committee” on such occasions in which case non members would be asked to leave the room for the purposes of this discussion.
- Any resolution put and carried whilst in Closed Committee are then reconfirmed in open Committee.

Part 6 : Dispute Resolution.

The OARA Committee has recently had to deal with a dispute relating to a letter of censure from the [REDACTED] Operations Manager [REDACTED], listing a series of complaints from some residents against a village resident.

As President of the OARA Committee, I attended a meeting between management and the resident together with his support person.

I attended to ensure that due process was carried out, and as a result wrote to the Operations Manager with some concerns, in particular the apparent lack of the right of reply given the resident, before a formal warning was issued to him.

This experience will guide this response to the questions identified relating to dispute resolutions.

Question 46.

“What are your views on the reform proposals identified by the review for internal dispute resolution procedures in Retirement Villages outlined in this paper?”

- The need to introduce a definition of “complaint” into the RV Act is strongly supported. There appears to be a grey area between what is an operational issue and what is a significant complaint between residents or a resident and village management. The response from management to the type of complaint will significantly differ between a formal, written complaint and what is otherwise a lower order concern about village operations .
- It is agreed that good practice should be guided by protocols to manage issues in the village. There should be a clear pathway set out that guides the process, such as the need for a complaint to be in writing, a time scale for this to be forwarded to the resident subject of the complaint/s, a time scale for the resident to reply to the complaint/s and a time scale for the relevant parties to meet and discuss; if not resolved, then a time scale for a mediation process to occur. In this way, the complaint is handled quickly and the resident given the formal right of reply.
- The suggestion that where a complaint involves the Village Manager then the Internal Disputes Procedure allows for an alternative person whom residents may contact, is endorsed .
- In fact, this proposal could be extended in the management of all resident to resident and resident to Village Manager disputes, so avoiding conflicts of interest and internal tensions within the village. Therefore the idea of an independent arbitrator is supported.

Questions :

47. “Should a party to a retirement village dispute seeking access to VCAT or the courts be first required to have followed / exhausted the internal disputes resolution procedure?”

48. “Should mediation of a dispute through DSCV be a pre-condition of access to VCAT or the courts?”

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

- It is agreed that every effort must be made to reduce the “time, cost, stress and complexity of seeking resolution of disputes through VCAT and the Courts”. The initiative to undertake a cost benefit analysis of establishing an external dispute resolution body for the retirement village sector is therefore strongly supported.
- It is agreed that a party to a dispute should have first exhausted the internal dispute resolution procedures, PROVIDED that appropriate protocols are set out and have been followed; if not, the resident should have every right to appeal to an outside authority at any point in the process.
- To achieve the desired low cost , timely and binding resolution of disputes then a stand alone external dispute resolution authority should be established.

Complied by Dr Winston McKean,
President and Chair,
One Asling Residents Association.
6th December, 2019.