

[REDACTED] Residents' Committee  
[REDACTED]  
[REDACTED]

5th December 2019

Department of Justice and Community Safety Victoria.

To whom it may concern

**Review - Retirement Villages Act 1986**

Thank you for the opportunity to comment on the Review of this Act.

Attached is our response to the questions contained in the summaries of the various aspects of management and occupation of a retirement village

Yours sincerely

[REDACTED]  
David Reid OAM

President

# The retirement village sector and the regulatory and policy framework

## What is a retirement village?

Retirement villages are a form of independent living accommodation. They are mostly for retired people over the age of 55. They provide a community setting with access to a range of services. In Victoria, 467 retirement villages provide homes to about 36,000 people.

Retirement village homes are not a conventional property purchase or investment. They may offer prospective residents different types of tenure, contracts and payment arrangements.

## Laws that apply to retirement villages

The *Retirement Villages Act 1986* (RV Act) and its regulations apply to retirement villages in Victoria.

These laws aim to protect people who live in retirement villages and help them make the right decisions before they enter a village. The laws also put requirements and limits on village operators. For example, they must give prospective residents certain information before entering into a contract.

The RV Act also:

- seeks to protect residents' payment of an 'ongoing contribution'
- limits what operators can include in a contract
- specifies cooling-off rights
- limits increases on certain charges and levies
- limits the operator's right to end a contract, and
- imposes some annual financial reporting requirements on operators.

We would like your views on the application and scope of the RV Act.

### Questions for consideration

1. Should the payment of an ongoing contribution be the defining factor in determining whether the RV Act applies to a retirement village? If not, what other considerations would be appropriate?
2. Is the definition of 'retirement village' under the RV Act otherwise appropriate? If not, what changes would you recommend?

Comment [D Reid1]: Yes

Comment [D Reid2]: Yes

### Current purpose of the RV Act

The stated purpose of the RV Act is to clarify and protect the rights of people who live in, or want to live in, retirement villages.

We would like your views on the current purpose of the RV Act.

### Questions for consideration

3. Is the current purpose of the RV Act still appropriate? If not, what do you think the legislative purpose of the RV Act should be?

Comment [D Reid3]: Yes

### **Registration of a retirement village**

Consumer Affairs Victoria maintains a public register of retirement villages. To keep the register current, village operators must provide and update:

- the name and address of the village
- details of any exemption order, and
- the name and address of the village manager.

We would like your views on the purpose and use of the current register of retirement villages.

### **Questions for consideration**

4. What improvements could be made to the register of retirement villages?

5. What other information should operators be required to include in the register?

**Comment [D Reid4]:** No Change needed

## **Entering a retirement village**

### **Time for consideration and cooling-off periods**

Retirement villages in Victoria are governed by the *Retirement Villages Act 1986* (RV Act) and its regulations. The RV Act says operators must give prospective residents a copy of the contract at least 21 days before the resident signs it. This gives them time to assess the contract and consider whether to proceed.

The RV Act gives non-owner residents a cooling-off period of three business days after they sign the contract. During the cooling-off period, they can change their mind and cancel the contract. Their ingoing contribution is refunded, minus the greater of:

- \$100 or
- 0.2% of the ingoing contribution.

A similar cooling-off period applies to property sales under the *Sale of Land Act 1962*. This means non-owner residents have the same cooling-off rights as owner-residents. (Owner-residents buy the strata title to their units.)

We would like your views on the current consideration and cooling-off periods under the RV Act.

### **Questions for consideration**

6. Are the current 21 day 'consideration' period and the 3 day 'cooling-off period' under the RV Act effective in achieving their aims? If not, what other or additional measures would be effective and fair?

**Comment [D Reid5]:** Yes

## **Disclosure obligations**

### **Disclosure when advertising a retirement village unit**

Ads for the sale or lease of retirement village units often only advertise the up-front price. They do not mention any extra costs and charges. Prospective residents may believe the advertised price is all they must pay.

Extra costs and charges can include 'deferred management fees' (DMF) or other departure fees and charges. These can significantly reduce the amount a resident gets back when they leave and their unit is resold or leased.

We would like your views on whether there should be more transparency in the advertising of retirement village units for sale or lease.

### Questions for consideration

7 When advertising the 'price' of a retirement village unit, should there be a requirement to include a reference to any deferred management fees and other departure fees and charges?

**Comment [D Reid6]:** Yes. Should also be a statement about monthly fees and potential increases over time.

### Pre-contractual disclosure

The RV Act says operators must give certain information to prospective residents. They must provide it in a clear, easily understood form. This helps prospective residents understand what they are agreeing to. They must receive certain information before they sign a residency and management contract.

Operators provide information in 'fact sheets' and 'disclosure statements'.

### Fact sheet

By law, operators must provide a fact sheet to prospective residents on request. The fact sheet should include general information on important matters about the village. It must also contain information about the costs of entering, living in and departing the village. This lets prospective residents 'shop around' and compare offers from different retirement villages.

### Disclosure statement

At least 21 days before a resident signs a contract, the operator must give them a disclosure statement. It must set out the exact costs relating to their unit. It must also include an estimate of their exit entitlements after one, two, five and 10 years. This gives residents a clear understanding of the costs involved. It ensures they are aware they will receive less than the contract price when they leave the village.

We would like your views on the current pre-contractual disclosure obligations under the RV Act.

### Questions for consideration

8 Has the provision of a Factsheet and Disclosure Statement to prospective residents led to an improved understanding of the financial and contractual arrangements relevant to living in a retirement village enabling prospective residents to make an informed decision?

**Comment [D Reid7]:** Probably yes but have no way of measuring this.

9 What, if any, further improvements could be made to improve prospective residents' understanding of the potential financial and contractual arrangements relevant to living in a retirement village?

**Comment [D Reid8]:** Statement of risks re any fee subsidy from other activities. E.g. Embedded power network..Emphasise Departure fees in a box or table

10 Are the current timeframes for provision of a Factsheet and Disclosure Statement to prospective residents appropriate?

**Comment [D Reid9]:** These seem appropriate.

### Contracts – form and complexity

Retirement village contracts can be complex and difficult for residents to understand.

To address this, since 2014 the RV Act and regulations say that all contracts must:

- be in writing and in a standard format
- cover all relevant matters
- exclude common unfair terms, and

- include commonly accepted rights and obligations for owners, managers and residents.

We would like your views on the form and content requirements for contracts under the RV Act.

### Questions for consideration

11 Have the form and content requirements for retirement village contracts introduced in 2014 improved residents' understanding of the contractual arrangements they have entered into?

**Comment [D Reid10]:** Probably but no means of measuring this.

12 To what extent do retirement village contracts remain unnecessarily complex?

**Comment [D Reid11]:** This needs research and discussion.

13 What further improvements could be made to contractual requirements under the RV Act?

**Comment [D Reid12]:** Ensure the financial obligations schedule of the contract includes all fees and charges.

## Financial models and the deferred management fee

Retirement villages can offer different sorts of financial arrangements, or models. The most common models are:

- loan-lease or loan-licence, also known as the DMF model, and
- strata-title (freehold title) model.

### Loan-lease/licence model

This model features:

- a large up-front payment or 'ingoing contribution' from the resident. This operates as an interest-free loan to the retirement village operator
- deferred management fees on leaving, and
- refund of the up-front payment to the resident when they leave (after fees have been deducted).

### Deferred management fee

The DMF is an annual fee the resident pays for each year they live in the village. It is usually capped at a set number of years. It can be calculated as a percentage of the purchase price paid by either the:

- leaving resident, or
- future resident.

The DMF model aims to let retirees buy a unit for less than the market value of a similar unit in the same area. They may also avoid paying stamp duty. The village owner recoups the discount on the market value of the unit through the:

- interest free loan (the ingoing contribution), and
- DMF.

We would like your views on the following suggestions. They aim to improve the understanding, transparency and operation of the DMF model.

### Questions for consideration

14 Should retirement village operators be required to disclose ingoing prices for entering a retirement village both with and without deferred management fees? If so, what form should this take? If not, why not?

**Comment [D Reid13]:** Yes. A simple statement in the pre purchase fact sheet

15 Should deferred management fees be calculated on a pro rata basis? If so, why? If not, why not?

**Comment [D Reid14]:** Yes in the interests of fairness.

16 When should retirement village operators be required to provide a resident with an estimate of their departure fees and what are your reasons?

**Comment [D Reid15]:** During the sale process so that financial obligations are fully understood

# Living in a retirement village

## Governance of retirement villages

### Retirement village accreditation

Voluntary accreditation schemes have been in place for some time. An example is the Lifemark Village Scheme.

The retirement village sector recently launched the:

- Australian Retirement Village Accreditation Scheme (ARVAS), and
- Retirement Living Code of Conduct (RLCC).

ARVAS includes seven standards and is voluntary. It replaces the Lifemark Village Scheme and other earlier voluntary schemes. To gain ARVAS accreditation, the operator must also subscribe to the RLCC.

In 2017, a Parliamentary Inquiry made recommendations about the retirement housing sector. These included consideration of mandatory accreditation for all retirement housing operators.

Administering and enforcing a mandatory scheme would be expensive. It may lead to increased running costs for village operators. These may be passed on to residents. We should also consider the effects on residents if their village fails to achieve or maintain accreditation.

We would like your views on developing a model for mandatory accreditation for the retirement village sector.

### Questions for consideration

17 What do you consider to be the benefits and costs of introducing a form of mandatory accreditation for retirement villages?

**Comment [D Reid16]:** Benefits would include ensuring that the Village complies with the terms of the Act and that govt have power to inspect. Costs could increase resident fees

18 What do you consider to be the necessary elements of any mandatory accreditation scheme?

**Comment [D Reid17]:** Must be:  
- Consistent with the Act  
- Compliance audited by an independent body  
- sanctions/penalties for non compliance

19 What do you consider to be the benefits and costs of voluntary accreditation schemes?

**Comment [D Reid18]:** A voluntary scheme would enable dishonest operators to be their own judge could increase resident fees

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

**Comment [D Reid19]:** Regular audit by CAV

### Manager qualifications and training

The *Retirement Villages Act 1986* (RV Act) imposes two restrictions on who can be involved in retirement villages.

It says you cannot be involved in the promotion or sale of residential rights in a retirement village if you:

- are insolvent under administration, and
- were convicted of a fraud or dishonesty offence within the last five years.

There is no minimum training or mandatory ongoing professional development for managers or employees.

We would like your views on whether retirement village managers and employees should have to:

- undertake certain training, and
- meet ongoing professional development obligations.

**Comment [D Reid20]:** We think in principle, that in addition to solvency and honesty requirements, managers should undertake training that enables them to demonstrate the ability to:  
- Interact and communicate effectively with residents, both orally and in writing.  
-Facilitate discussion aimed at resolving disputes.  
-Read and interpret financial reports  
-Efficiently manage the deployment of resources.  
-Comply with relevant laws.

**Comment [D Reid21]:** Agree they should.

### Questions for consideration

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

**Comment [D Reid22]:** The period without insolvency or fraud should be ten years not five

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

**Comment [D Reid23]:** Should result in a higher standard of management and more efficient operations. There may be a cost impact on residents fees.

23 How should any requisite professional development requirements and training be determined?

**Comment [D Reid24]:** Through standards developed in the code of practice recently released by the Retirement Living Council.

24 Are there other ways to ensure that retirement village managers and employees have the requisite skills and professionalism to undertake their responsibilities?

**Comment [D Reid25]:** By the careful design of selection criteria for manager positions based on the abilities outlined in comment 20 above

### Residents' committees

The RV Act allows retirement village residents to elect a residents' committee to represent their interests.

A residents' committee can also:

- call meetings of residents
- help resolve disputes between residents, and
- approve above-CPI increases in maintenance charges.

We would like your views on whether the RV Act allows for resident participation well enough.

### Questions for consideration

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

**Comment [D Reid26]:** Yes.

26 Should residents committees have a role in dispute resolution involving resident-to-resident disputes?

**Comment [D Reid27]:** No

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

**Comment [D Reid28]:** No. Because this reduces transparency and resident involvement.

28 Should retirement village owners and managers involvement in meetings of the residents committee be prohibited unless invited by the committee?

**Comment [D Reid29]:** Yes

### Annual meetings/reporting

The RV Act says managers must hold annual resident meetings and report on certain matters, including:

- the payment or non-payment of in-going contributions in the previous year
- details of any matter preventing the owner from meeting their debts in the following year
- the amount of maintenance charges received in the previous year
- details of proposed increases in maintenance charges for the following year
- details of expenditure on the provision of goods and services for the village in the previous year
- anticipated expenditure for the following year
- provision for any extra-ordinary or major works in the village, and
- details of proposed special levies.

These requirements aim to ensure residents are informed about how their maintenance charges are being spent and whether they should agree to maintenance charge increases or special levies.

The RV Act does not say operators must give this information in a particular format or before the meeting. We would like your views on whether the annual reporting requirements are strong enough.

#### Questions for consideration

29 Is the level of detail about the financial activity involving the retirement village required to be included in the financial statements adequate for residents? If not, why not?

30 Should residents be provided with copies of the financial statements before the annual meeting? If so, what period is reasonable?

31 Are there any other matters that should be addressed in the reporting requirements?

#### **Retirement villages with an owners corporation**

Some retirement villages have owner-residents who own the strata title for their unit. Those residents will be members of an owners corporation. That means both the RV Act and the *Owners Corporations Act 2006* (OC Act) apply to those villages.

If there is an owners corporation, the RV Act says the annual owners corporation meeting can replace the annual resident meeting. This creates issues in villages that have a mix of owner-residents and non-owner residents. Non-owner residents include loan-lease and licence residents.

The issues include:

- Should an annual owners corporation meeting consider matters that affect all the residents? (That would affect the non-owner residents.)
- Can non-owner residents attend or vote at owners corporation meetings? (They are not members of the owners corporation.)
- If there is more than one owners corporation, which one should replace the annual resident meeting?

**We would like your views on the best way to manage annual meetings when there are owner-residents and non-owner residents.**

#### Questions for consideration

32 In mixed tenure retirement villages, should there be separate meetings for the village, according to the provisions of the RV Act, and for the owners corporation, according to the provisions of the OC Act? If not, how should issues identified for mixed tenure retirement villages be addressed?

**Comment [D Reid30]:** No. Financial reporting needs to clearly separate income/expenditure in village budgets from those in Long Term Maintenance Funds. Long Term Maintenance Funds should not be part of a normal village budget and should not be used to balance an overall village budget. Any interest accruing from Long Term Maintenance Funds should be retained in that account and should not be included in a normal village budget. Projects funded from a LTMF should be clearly and separately identified and costed at the beginning of each financial year.

Quarterly reporting on the budget and LTMF and any other funds should be established and should focus on any significant variations in budget income/expenditure in order that the Residents Committee and residents are aware of any budget issues well before the end of the financial year. Village managers should explain the variances and identify any actions necessary to address the variances".

**Comment [D Reid31]:** Yes. Twenty one days

**Comment [D Reid32]:** Detailed explanation of significant variation from budgeted income and expenditure

**Comment [D Reid33]:** Not relevant to our village

#### Operators obligations

##### **Responsibility and timeframe for repairs and maintenance**

The RV Act says the contract must set out who is responsible for repairs and maintenance.

The Government considers that the RV Act should:

- ensure that it is clear who should to pay for repairs and maintenance. This should cover both inside units and in the communal areas and facilities
- say that repairs and maintenance works must be done within a reasonable timeframe that is acceptable to all parties, and
- say that retirement villages must report to residents on compliance with maintenance plans. Residents' maintenance fees fund these plans.

**Comment [D Reid34]:** Agree that all points below should be covered in the act.

**What is the difference between ‘maintenance’ and ‘capital’ items?**

The RV Act does not define ‘maintenance items’ and ‘capital items’. Residents and operators sometimes disagree about which category a problem item is in. This affects who must pay for its repair or replacement.

This can create problems. It is especially an issue if residents must also contribute to a capital replacement fund. For example, the contract may not be clear about whether items are:

- covered by the capital replacement fund, or
- the operator’s responsibility.

**We would like your views on the extent the RV Act should:**

- regulate responsibility for repairs and maintenance, and
- address all the related recommendations of the Parliamentary Inquiry.

**Questions for consideration**

33 To what extent should the RV Act further address issues of ‘responsibility’ and ‘timeliness’ for repairs and maintenance in retirement villages?

34 What are the problems in more prescriptive requirements applying to all types of retirement villages and in all types of circumstances?

35 To what extent can or should the RV Act regulate what constitutes maintenance and capital items and to what extent should these issues be left to voluntary codes or guidelines?

**Comment [D Reid35]:** Clarification is required as to who pays for what in relation to maintenance/repairs and replacement of capital items. The act or relevant regulations should define maintenance items and capital items.

**Comment [D Reid36]:** No comment.

**Comment [D Reid37]:** These matters should be regulated by the Act but supported by Guidelines or a code of practice

**Maintenance and capital replacement plans and funds**

The RV Act does not say retirement villages must have maintenance plans or capital replacement plans. If they do have such plans, they do not have to report on them.

In contrast, the OC Act says owners corporations with many strata-title units must:

- prepare and approve a maintenance plan
- establish a maintenance fund, and
- report on implementation of the maintenance plan. This is in addition to general reporting obligations.

**We would like your views on whether the RV Act should say all retirement villages must have a maintenance and capital replacement plan and fund.**

**Questions for consideration**

36 Should all retirement villages be required to have maintenance and/or capital replacement plans and/or funds?

37 If so, what, if any, minimum requirements should apply to the establishment and operation of such plans and funds (for example, reporting obligations and restrictions on how monies are held)?

**Comment [D Reid38]:** Yes.

**Comment [D Reid39]:** The requirements should be the same as those required in the Owners Corporation Act as described above.

**The regulation of privately funded care services in retirement villages**

A key feature of retirement villages is that they can provide residents with a range of services. Some services form part of the operation of the village and are subject to a monthly service or maintenance charge. These may include gardening, repair and maintenance and recreation services. Operators may also provide personal services to residents. Personal services can include laundry and cleaning services, meals and ‘care services’. Care services may include nursing or medical services. Residents pay for personal services and can choose whether to buy these services or not.

**Comment [D Reid40]:** No comment.

The RV Act does not regulate the services provided to residents. They are regulated by general consumer protection laws, such as the Australian Consumer Law.

If health professionals provide a service, other regulatory frameworks apply. An example is the Health Practitioner National Health Law. This is in addition to contractual and consumer law protections. Health professionals include doctors, nurses, physiotherapists and others.

Some health providers do not have to be registered. These include massage therapists, naturopaths and ancillary service providers. They must comply with a General Code of Conduct under the *Health Complaints Act 2016*.

### **Aged Care Services and retirement villages**

The *Aged Care Act 1997* and the Aged Care Quality and Safety Commission (ACQSC) regulate some aged care services. These services are subject to significant monitoring, investigative and enforcement powers. This is to address any concerns with the level and standard of care provided.

This regulatory framework applies to retirement villages that are approved aged care service providers and only applies to the delivery of Government funded care services. It does not apply to the delivery of privately funded care services.

### **If a retirement village can no longer meet a resident's care needs**

The RV Act allows operators to say a resident must leave the village if their care needs cannot be met there. Two medical professionals must first certify this. The resident nominates one of the professionals.

**We would like your views on the:**

- regulation of retirement villages providing privately funded care services, and
- role of operators ensuring the welfare of residents.

### **Questions for consideration**

38 If you are a current or former resident of a retirement village, what are your experiences with receiving privately funded care services through a retirement village?

39 Do you think retirement villages should provide privately funded care services?

40 Is the current regulatory framework for the delivery of privately funded care services sufficient to ensure that potentially vulnerable and frail residents receive safe and high quality standards of care?

41 What role, if any, should retirement village operators have in ensuring the safety and welfare of their residents, taking into account a resident's right to autonomy and privacy?

**Comment [D Reid41]:** No. However RV operators should be encouraged to make residents aware that such services are available from various providers.

**Comment [D Reid42]:** No Comment.

**Comment [D Reid43]:** Comply with all relevant laws and common law duty of care.

## **Leaving a retirement village**

### **Selling/re-leasing a retirement village unit**

The rules governing residents' departure from a village are largely set out in the contract. The *Retirement Villages Act 1986* (RV Act) provides the following limits and guidance:

- Owner residents can set the sale price for their units and appoint selling agents. The RV Act prevents retirement village operators from doing this.
- Operators usually add terms to the contract. These make the control non-owner residents have over the sale process similar to owner-residents. If operators add such terms, they do not have to

pay a resident's exit entitlements until the unit is sold. Without such terms, operators must pay exit entitlements within six months of the resident's departure.

### **Moving into residential aged care**

Residents may move from a retirement village into residential aged care before their unit has been re-leased/licensed. In this situation, the RV Act says the village operator must pay the aged care facility either the resident's:

- Refundable Accommodation Deposit (RAD), or
- Daily Accommodation Payment (DAP). Once the unit has been re-leased, the operator must pay any left-over amount from the exit entitlement to the former resident.

These laws apply regardless of what a contract says.

**We would like your views on the role of the RV Act in the sale or re-leasing of retirement village units.**

### **Questions for consideration**

42 Does the RV Act strike the right balance between the interests of residents and operators in the sale or re-leasing of a retirement village unit? Including the appropriateness of the process whereby the prescribed terms are inserted into non-owner residence contracts? If not, what improvements could be made to ensure the right balance?

**Comment [D Reid44]:** This question seems to assume that the retirement village unit is occupied by one person. The act or its regulations needs to cover the situation where a partner continues to occupy a unit after their partner has moved to an aged care facility

## **Reinstatement and refurbishment of retirement village units**

The RV Act does not regulate unit reinstatement or renovation when a resident departs a village. Instead, contracts must provide for these requirements, including who should pay.

When residents pay for refurbishment or reinstatement, they may prefer minimal work done. Operators may want more work done, so units being re-sold or re-leased are of a high, uniform standard.

We would like your views on the role of the RV Act in relation to reinstatement and refurbishment obligations when a resident leaves.

### **Questions for consideration**

43 Does the RV Act strike the right balance between the interests of departing residents and operators? If not, what improvements could be made to ensure the right balance?

**Comment [D Reid45]:** It appears not to. The Act should state that the departing resident or their estate should only be required to pay reinstatement costs. Any additional upgrade should be at a cost to the owner.

### **Ongoing charges after a resident leaves**

The RV Act says that after a resident leaves, operators cannot charge:

- any resident's personal services fees for more than 28 days, and
- non-owner resident's maintenance fees for more than six months.

Departing residents may have concerns that the ongoing charges:

- are worth more than the operator provides
- cannot be linked to actual benefits or services received, and
- occur without a proper explanation about how the operator will spend them.

Operators may have concerns that:

- they must continue to pay village operational costs when a resident departs, and

- operational costs may not change much with the level of village occupancy.

Remaining residents may have concerns about how operating costs are shared between them and departing residents.

## Capital gains

Capital gains (or losses) on a unit may be shared between the resident and operator. The RV Act does not regulate these contractual arrangements. Contracts could specify:

- a 50/50 split
- all capital gains go to the village owner, or
- different arrangements.

Many contracts do not take account of any capital improvements the resident may make to the unit.

We would like your views on the role of the RV Act in relation to regulating ongoing charges after a resident leaves and capital gains.

### Questions for consideration

44 In relation to the regulation of ongoing charges when a resident leaves a village, does the RV Act strike the right balance reconciling the interests and needs of departing residents, remaining residents and the retirement village operator? If not, what changes should be considered?

**Comment [D Reid46]:** The payment of monthly fees after a resident has vacated a unit should be limited to three months after the resident or their estate provides a written statement of vacant possession to the owner.

45 Should the RV Act regulate the way in which any capital gains (and losses) are treated when a retirement village unit is sold or re-leased? If so, how should it be regulated?

**Comment [D Reid47]:** Yes and it should be specified in the contract

## Dispute resolution

### Internal dispute resolution

Certain internal dispute resolution (IDR) procedures are required under the *Retirement Villages Act 1986* (RV Act). In 2017, Consumer Affairs Victoria reviewed these requirements and identified possible reforms. These included:

- introducing a definition of 'complaint'
- clarifying requirements around recording complaints
- requiring any dispute resolution body dealing with a retirement village dispute to consider the extent to which the 'good practice protocols' developed by Consumer Affairs Victoria have been followed
- clarifying in legislation the avenues for complaints about village managers, and
- removing the role of residents' committees in resident dispute mediation.

**We would like your views on potential improvements to current internal dispute resolution procedures in retirement villages.**

### Questions for consideration

46 What are your views on the reform proposals identified by the review of internal dispute resolution procedures in retirement villages outlined in this Paper?

**Comment [D Reid48]:** We support consideration of these proposals.

## External dispute resolution

In 2017 a Parliamentary Inquiry looked into the retirement housing sector. It recommended the introduction of a low cost, timely and binding dispute resolution service. This recommendation is being considered as part of this review.

Consumer Affairs Victoria has engaged an independent consultant to consider potential models for the retirement village sector. Their report will include a cost-benefit analysis of those models. The findings will contribute to the Government's consideration of this issue, as will any submissions made in response to the Issues Paper.

**We would like your views on potential improvements to the management of, and processes for, external dispute resolution.**

### Questions for consideration

47 Should a party to a retirement village dispute seeking access to the Victorian Civil and Administrative Tribunal (VCAT) or the Courts be first required to have followed/exhausted the internal dispute resolution procedure?

**Comment [D Reid49]:** Yes.

48 Should mediation of a dispute through Dispute Resolution Centre of Victoria (DSCV) be a pre-condition of access to VCAT or the courts?

**Comment [D Reid50]:** Yes. Subject to timely action by the Dispute Resolution Centre of Vic.

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

**Comment [D Reid51]:** By appointment of a retirement housing Ombudsman and :by implementing 46 and 47 above.

## Enforcement

### Enforcement of the RV Act offence provisions

Consumer Affairs Victoria monitors compliance with, and enforcement of, the *Retirement Villages Act 1986* (RV Act). Operators can be fined for breaches of the offence provisions.

Consumer Affairs Victoria's monitoring and enforcement powers are similar to those in the *Australian Consumer Law and Fair Trading Act 2012*. However, with retirement villages, Consumer Affairs Victoria cannot:

- enter and inspect any premises open to the public
- enter and search any premises at any time if the inspector believes that dangerous goods are being supplied from the premises
- take samples, or inspect, seize, or make copies or extracts of documents
- require operators to provide information and documents
- require operators to give evidence relating to a suspected breach of an offence provision
- share information with other enforcement agencies, or
- seek a court order for the operator to cease trading, correct advertising or publish an adverse finding.

**We would like your views on the adequacy of the enforcement provisions in the RV Act.**

### Questions for consideration

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

**Comment [D Reid52]:** Yes.

51 Should the Director of Consumer Affairs Victoria be given additional powers and **enforcement** options available under the *Australian Consumer Law and Fair Trading Act 2012*? If so, why? If not, why not?

**Comment [D Reid53]:** Yes, to ensure the best possible consumer protection to residents of retirement villages. A properly run village should have no problem with CAV having the power to intervene in limited circumstances

To learn more about the Retirement Villages Act Review, to download the full issues paper, or to have your say, visit [engage.vic.gov.au/retirementvillagesact](https://engage.vic.gov.au/retirementvillagesact)