Costs and benefits of proposed changes to the Retirement Villages Act 2003

Final Report

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Commercial in Confidence

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Preface

This report has been prepared for Te Tūāpapa Kura Kāinga | Ministry of Housing and Urban Development by Jo Smith, Stephen Knuckey, Memory Rugube, and Zoe Yang, and reviewed by Nick Carlaw, from MartinJenkins (Martin, Jenkins & Associates Ltd).

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Introduction

Background and context

The retirement villages industry

The retirement villages industry comprises 425 villages, and an estimated 40,500 units.[1] Of these villages, 407 are registered members of the industry body, the Retirement Villages Association. Sixty-five per cent of villages offer a continuum of care, including aged care facilities.

There are three types of retirement village providers:

- not-for-profit organisations (mainly linked to charitable foundations or churches)
- large commercial operators, and
- private commercial owners.

In the past two decades, the retirement villages industry has grown in size and complexity. The number of villages has increased by 24% since 2012, and the number of units by 71%. Commercial operators entered the market in the 1980s to 1990s and now dominate the sector. The "Big Six" commercial operators – Ryman, Metlifecare, Summerset, Bupa, Oceania and Arvida – currently account for a combined 47% of villages and 63% of units.

Currently, 49,000 people live in retirement villages, including 14% of the population aged 75 and over. The aging of New Zealand's population is expected to increase the demand for retirement village living to over 81,000 by 2033. New supply planned by the industry is expected to cover just over 80% of the projected future demand. [2]

Calls for a legislative review

The Retirement Villages Act 2003 and wider regulatory system provides a legal framework under which retirement villages operate. The key purposes of the Act are to:

- protect the interests of current and future residents of retirement villages, and
- enable the development of retirement villages under a legal framework readily understandable by residents, intending residents, and operators.

1 Estimate of the number of units in 2023 after applying the expected growth rate in units to the number of units available in 2021 as provided in JLL (2022) *New Zealand retirement villages and aged care*. Research report.

2 JLL (2022) *New Zealand retirement villages and aged care*. Research report.

Apart from some minor amendments to the Code of Practice, the primary legislation and regulatory regime have not been reviewed since the legislation was enacted.

There have been growing calls for a fundamental review of the Act and regime to address operational problems and what some stakeholders see as unfair terms and an imbalance between the rights and responsibilities of residents and those of operators.

In 2020, Te Ara Ahunga Ora | Retirement Commission published a White Paper setting out options for improving the regulatory function of the sector. Its subsequent report, “Submissions summary and recommendations”, released in 2021, recommended a full review of the legislation.

The Ministry's consultation on options for change

Te Tūāpapa Kura Kāinga | Ministry of Housing and Urban Development (the Ministry) is now undertaking a comprehensive review of the Act, and the associated codes and regulations, to determine whether they are still fit for purpose. The Ministry will publicly consult on potential changes in a discussion document to be released prior to the 2023 General Election.

To inform the preparation of the discussion document, the Ministry commissioned MartinJenkins to prepare cost benefit analyses (CBAs) on two key topics:

- changes to key terms in Occupation Right Agreements (ORAs) relating to financial exit matters, and
- options for establishing a new or changed dispute resolution regime, including a new independent body to oversee complaints and disputes processes.

This report presents the findings from our two CBAs.

Approach to cost benefit analysis

Our CBAs were prepared in line with the New Zealand Treasury's guide to social cost benefit analysis, and its guidance note on effective consultation for impact analysis. This involved:

- developing intervention logic maps (ILMs) for the proposed changes
- using these ILMs to identify the full range of expected costs and benefits (not just economic or financial), and whether or not they can be quantified
- identifying the counterfactual, and the expected types of incremental costs and benefits, over and above this base case (the status quo)
- assessing whether these costs and benefits can be quantified, and as far as possible monetising them so that they can be compared with other options and the base case, and

- where possible, considering the distribution of costs and benefits, for example across retirement village operators, residents and their families, and government agencies.

Caveats and uncertainties

MartinJenkins prepared these analyses to a very tight deadline. Our calculations are underpinned by inputs and assumptions, which are set out in Appendix 1. These assumptions were informed by information gathered through discussions and documents provided by the Ministry, and initial desk-based research.

We identified several categories of costs and benefits for which we lacked data, or for which quantification was not possible. Importantly, we were unable to quantify or monetise many of the potential benefits of the options, and some of the costs. For some of the options relating to dispute resolution, we have noted potential cost savings relative to the status quo option, which are incorporated in the cost figures.

The consultation process may help fill some of these data gaps, and test the assumptions we used, to inform the analysis for final policy proposals.

Key findings

Financial exit

Drivers for change

Retirement village residents are required to sign a contract called an Occupation Right Agreement (ORA), which sets out the terms and conditions of their occupancy. An upfront capital sum is usually required, along with weekly fees for services and facilities. Operators have interest-free use of the capital sum during the occupancy. The capital sum is repaid on exit, usually minus a fee (often called a deferred management fee – DMF).

There are a number of financial matters that need to be resolved when an ORA is terminated or a resident vacates their unit, including:

- repayment of the resident's capital sum (less the DMF)
- charging of weekly fees
- accrual of the DMF, and
- the treatment of capital gains and losses from the resale of the outgoing resident's unit.

The current treatment of the financial exit matters tends to favour operators over residents, and is perceived by some as being unfair.

Options

Te Tūāpapa Kura Kāinga | Ministry of Housing and Urban Development is consulting on the following options to improve the consumer protections for residents and strike an effective balance between the rights and responsibilities of residents and those of operators.

Option 1: Mandatory repayment timeframe

- **Option 1A**: Require operators to repay capital sums to the resident or the resident's estate within **6 months** after the unit is vacated (if the unit is not resold earlier).
    - Option 1A(i): Apply the requirement to repay within 6 months only to new ORAs.
- **Option 1B:** Require operators to repay capital sums to the resident or the resident's estate within **12 months** after the unit is vacated (if the unit is not resold sooner).

- Option 1B(i): Apply the requirement to repay within 12 months only to new ORAs.

Option 2: Requiring operators to pay interest on capital sums after a certain time

- **Option 2A**: Require operators to pay interest on the capital sum if a unit is still unsold after **6 months**.
- **Option 2B**: Require operators to pay interest on the capital sum if a unit is still unsold after **9 months**.

Option 3: Weekly fees – Require operators to stop charging weekly fees when a unit is vacated.

Option 4: Capital gains/losses – Limit residents' liability for a capital loss on the resale of their unit to the same extent as they would be entitled to any share of the capital gains.

Option 5: Treatment of fixed deductions (DMFs) – Stop fixed deductions accruing once a unit is vacated (or shortly after that).

Quantified costs and benefits

Table 1 below provides a high-level summary of the quantifiable incremental costs and benefits of the Option 1, 2 and 3, in present value (PV) terms.[3] The appraisal period is 10 years, and we applied a discount rate of 5%.

We applied sensitivity analysis to Option 1, based on different assumptions about the solvency threshold period for which operators need to hold capital in order to meet their repayment obligations. This resulted in a range of costs for this option.

The results show that, based on our current assumptions, Option 3 (stopping weekly fees) is the least costly option in terms of opportunity costs, but also has the lowest quantified benefits. It could be implemented in combination with either of the other options. All options have a negative net present value (NPV)[4] based on the opportunity costs and benefits that we can quantify at this stage. To this end, the unquantified costs and benefits should also be considered alongside the results of the NPV.

[3] PV means that the flows of costs and benefits over time are discounted to today's dollars.

[4] The NPV is the difference between the present value of the costs and the present value of the benefits. A positive NPV indicates that the benefits of the investment exceed the costs; a negative NPV shows that the costs outweigh the benefits.

Table 1: Summary of quantified costs and benefits for the financial exit options (10 years, 5% discount rate)

	Repayment of capital sum		Weekly fees
$millions	**Option 1: Mandatory repayment timeframe (at 6 or 12 months)**	**Option 2: Paying interest on capital sums (at 6 or 9 months)**	**Option 3: Cease weekly fees**
Present value of costs	Option 1A (repayment at 6-month): $265.567 - $1,103.115 Option 1B (repayment at 12-month): $120.712 - $501.416	Option 2A (units unsold after 6 months): $70.002 Option 2B (units unsold after 9 months): $29.585	$6.418
Present value of benefits	Option 1A (repayment at 6-month): $56.560 Option 1B (repayment at 12-month): $14.740	Option 2A (units unsold after 6 months): $66.801 Option 2B (units unsold after 9 months): $28.900	$1.715
NPV	Option 1A (repayment at 6-month): ($209.007) – ($1,046.556) Option 1B (repayment at 12-month): ($105.972) - ($486.676)	Option 2A (units unsold after 6 months): ($3.202) Option 2B (units unsold after 9 months): ($0.684)	($4.703)

Unquantified benefits and costs

A range of benefits and costs that will be generated by changes in the financial exit processes cannot be quantified at this stage. These benefits and costs are explained in more detail later in this report. Taken together, they may be significant for both residents and operators.

Table 2 provides a qualitative assessment of the potential magnitude of these benefits compared to the status quo. Option 1 will have the greatest impact on these benefits because of the greater certainty associated with a mandatory entitlement period. If any of the options are implemented together, this could increase the magnitude of total benefits.

Table 2: Potential magnitude of unquantified benefits under each option

Unquantified benefits	Option 1	Option 2	Option 3
Less stress and greater certainty for residents and their families	✓✓✓	✓	✓✓✓
Increased confidence in retirement villages	✓✓✓	✓	✓✓✓
Increased incentives for operators to maintain and improve villages	✓✓✓		
Reduction in time and financial costs associated with disputes related to financial entitlements	✓✓	✓	✓✓
Increased certainty for operators	✓✓		

Key:

✓ Low

✓✓ Moderate

✓✓✓ High

Table 3 provides an assessment of the potential magnitude of the relevant non-quantifiable costs. Option 1 will have a greater impact on these costs than the other options because of the larger associated financial impacts. Again, although they are currently assessed as discrete options, any of the main options could be implemented together, which would increase the relevant costs.

Table 3: Potential magnitude of unquantified costs under each option

Unquantified costs	Option 1	Option 2	Option 3
Offsetting financial and service impacts on residents	✓✓✓	✓	✓✓
Reduced ability of some operators to maintain operations or to expand	✓✓		
Detrimental impact on the housing market	✓		

Key:

✓ Low

✓✓ Moderate

✓✓✓High

Unmodelled options

We were unable to model two of the five main options, due to lack of data. They were:

- Option 4: Capital gains/losses
- Option 5: Treatment of fixed deductions.

We were also unable to model three of the sub-options for Option 1, again due to lack of data. They were:

- exemptions for some villages
- applying the mandatory repayment timeframe only to new ORAs (sub-options 1A(i) and 1B(i)).

Our report contains qualitative discussion of these options.

Dispute resolution

Case for change

Complaints and disputes in a retirement village setting may occur between residents and operators, operators and residents, former residents and operators, or between residents. The Retirement Villages Act 2003 sets out two forms of dispute procedures. Each operator must have a facility for resolving residents' complaints. The Act also provides for a formal dispute resolution process.

A range of concerns with the current dispute resolution system have been raised by stakeholders, and investigated by Te Ara Ahunga Ora | Retirement Commission.[5]

Options

The Ministry is consulting on changes to the dispute resolution system, to provide a process for resolving complaints and disputes that is consistent with best practice principles, and that protects the interests of residents while also enabling the retirement villages industry to develop.

We assessed the following options:

Option 1 **Status quo**

Option 2 **Status quo with some improvements** to, among other things, make the process fairer for residents

Option 3 **Establish a new dispute resolution scheme** to replace the current formal complaints and dispute panel process, by either:

Option 3A Establishing a Commissioner-based dispute resolution scheme, or

Option 3B Appointing a dispute resolution provider to deliver a new scheme.

Common to both options 3A and 3B is the introduction of a **complaint assessor role**.

5 Sources include: Bev James and CRESA (2015) *Retirement Villages Act 2003 Monitoring report disputes process report 2: the practice, experience and views of dispute resolution*; Commission for Financial Capability (2020) *Retirement villages legislative framework: assessment and options for change 2020* (white paper); Te Ara Ahunga Ora (2021) *Retirement villages legislative framework: assessment and options for change – submissions summary and recommendations 2021*; Retirement village complaints and disputes resolution online workshop 11 May 2022, hosted by Te Ara Ahunga Ora; Online meeting between Te Ara Ahunga Ora and dispute panellists 25 February 2022; Te Ara Ahunga Ora (2022) *Retirement villages complaints and disputes: an assessment.*

Quantified costs and benefits

Table 4 below provides a high-level summary of the total costs of the options, in PV terms, relative to continuing the status quo. The appraisal period is 10 years, and we applied a discount rate of 5%.

We applied sensitivity analysis to the options for change, based on different assumptions about the growth in the proportion of complaints that might eventuate. This provided a range of costs for each option.

The results show that, based on our current assumptions, Option 3B (appoint a dispute resolution provider to deliver a new scheme) is the least costly option in PV terms, relative to the status quo. This is because of the lower costs associated with contracting an existing provider compared to creating a new commissioner scheme with associated staff and overhead costs under Option 3A, or adding additional services to the existing process under Option 2.

Table 4: Summary of quantified costs for the dispute resolution options (10 years, 5% discount rate)

	Option 1: Retain status quo	Option 2: Status quo with changes	Option 3A: Establish a new Commissioner-based scheme	Option 3B: Appoint a DR provider to deliver a new scheme
Present value of costs ($m)	$7.676	$11.250 - $28.865	$8.470 - $16.118	$7.739 - $15.424
PV of incremental costs compared to Status Quo ($m)	-	$3.574 - $21.189	$0.795 - $8.442	$0.063 - $7.749

Unquantified benefits

A range of benefits will be generated by changing the dispute resolution processes cannot be quantified at this stage. Taken together, these benefits may be significant for both residents and operators. Table 5 provides a qualitative assessment of the potential magnitude of these benefits compared to the status quo. These benefits are explained in more detail later in this report.

Options 3A and 3B will provide the largest unquantified benefits. It is possible that these will be larger for 3A due to it being a scheme developed for and delivered through a dedicated commissioner service (rather than contracted through a provider that would probably also offer services to other parties). Under Option 3A, we have assumed the new scheme will be established as part of Te Ara Ahunga Ora, which would provide benefits through taking advantage of its knowledge of the retirement village sector, and its reputation and relationships across the sector.

Table 5: Potential magnitude of unquantified benefits under each option

Non-quantifiable benefits	Option 2	Option 3A	Option 3B
Less stress and increased satisfaction for residents	✓	✓✓✓	✓✓✓
Value of time saved in complaints processes	✓	✓✓✓	✓✓
Avoided complaints and improved services	✓	✓✓	✓✓
Increased operator productivity		✓	✓
Increased confidence in and reputation of retirement villages		✓✓✓	✓✓
Increased cohesion amongst residents in villages		✓	✓

Key:

✓ Low

✓✓ Moderate

✓✓✓ High

Financial exit

Current state: Financial exit

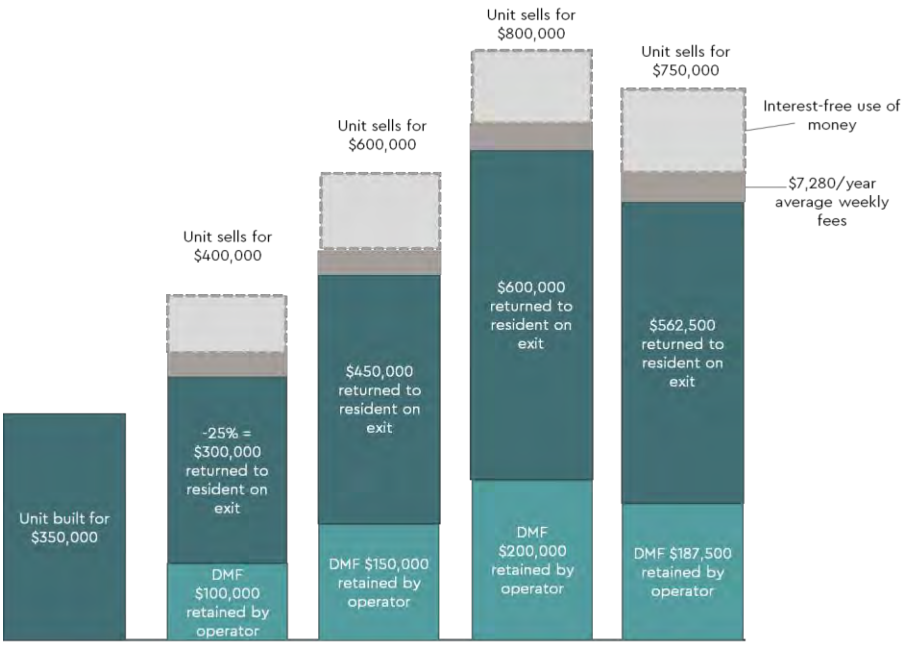
The business model used by retirement village operators

The three types of operators use similar business models. An upfront capital sum is usually required, along with weekly fees for services and facilities.

- Operators have interest-free use of the capital sum during the occupancy.
- The capital sum is repaid on exit, usually minus a fee (often called a "deferred management fee" – DMF). The DMF is typically 20–30% of the entry-value lump sum. It includes a margin to help cover the capital costs of supplying and upgrading village facilities for future residents.

Figure 1: Illustration of the retirement villages operators' business model

For illustrative purposes only; not to scale



Source: Adapted from Retirement Villages Association (2022) *Submission to the Social Services and Community Select Committee*.

Occupation Right Agreements

Residents are required to sign a contract called an Occupation Right Agreement (ORA), which sets out the terms and conditions of their occupancy. There are three broad types of ORA:

- a licence to occupy (LTO)
- unit title, and
- rent or lease.

The majority of ORAs (95%) are LTOs. LTOs are a contractual right to occupy a retirement property, not a fee simple (ownership) interest in the property.

Financial exit

A number of financial matters need to be resolved when an ORA is terminated or a resident vacates their unit, including:

- repayment of the resident's capital sum (less the DMF)
- charging of weekly fees
- accrual of the DMF,[6] and
- the treatment of capital gains and losses from the resale of the outgoing resident's unit.

According to the Retirement Villages Association, the average time for repayment of capital sums is four months. In 2021, 77% of all units were relicensed within six months and a further 14% were relicensed between six and nine months.[7]

Operators can continue charging weekly fees after a unit is vacated, though these fees must be reduced by at least 50% after six months. There is no time limit on how long this half charge can continue. The Retirement Villages Association reports that 44% of operators stop charging weekly fees within a month after a resident vacates a unit and this proportion is increasing each year. Others keep charging weekly fees

6 Jones (2016) explains that: "[i]n general, the fixed deduction is calculated as a percentage of the entry payment and accrues over the period of the first five years from the commencement date. Under some ORAs, a portion of the fixed deduction can accrue on the actual commencement date of the ORA. The accrual period ends depending on the terms of each ORA." Sara Jones (2016) *The financial implications of living in a retirement village: A comparative review of the financial terms of the Occupation Right Agreement.* LAWS 543 Elder Law Research Paper, Faculty of Law, Victoria University paper.pdf (vuw.ac.nz)

7 Retirement Villages Association (2021) *Blueprint for New Zealand's retirement villages sector.*

afterwards with variable cessation dates, such as six months after termination or when the exit repayment is made to the outgoing resident, whichever is earlier. Some operators continue charging weekly fees until a unit is relicensed, to ensure they have sufficient cash flow.

Operators are not required to share the capital gains from relicensing a unit with outgoing residents. While some ORAs involve sharing of capital gains, most do not. A very small proportion of ORAs decrease the capital repayment by some or all of the potential capital losses, without a share of the capital gains.

The case for change: Financial exit

Drivers for change

The treatment of the financial exit matters under the current regulatory regime tends to favour operators over residents, and is seen by some as unfair.

Operators have no obligation to repay the capital sum until the unit is resold. They may lack the incentive to quickly resell units after exit, as they continue to have interest-free use of the capital and they can also continue charging weekly fees (though these must be reduced by at least 50% after six months). Operators may have an incentive to prioritise selling other units, whether new or refurbished, that offer better returns. Smaller or non-profit villages may not have access to funds to repay the capital sum, if the unit remains unsold.

In extreme cases, residents (or the resident's estate) may not receive their capital repayments until more than 12 months after vacating their unit and are charged weekly fees until the unit is resold. This can create financial hardship for some residents and their families. The complaints and disputes processes may not be adequate to protect residents' interests in these extreme cases.

Te Ara Ahunga Ora has recommended a policy review that considers options for improving the resale and buy-back process, and restricting the charging of weekly fees after a resident vacates a unit.[8]

Desired outcomes

The desired outcomes are:

- adequate consumer protections for residents and intending residents of retirement villages
- an effective balance between the rights and responsibilities of residents and those of operators, and
- the ongoing viability of the retirement village sector and its ability to provide consumers with choice through a range of retirement housing options.

[8] Te Ara Ahunga Ora (2021) *Retirement villages legislative framework: assessment and options for change. Submissions summary and recommendations 2021*.

Voluntary initiatives

In 2021, the Retirement Villages Association launched a “Blueprint for New Zealand’s Retirement Villages Sector”, promoting a range of voluntary changes in the sector. The changes included, for example, operators paying interest on outstanding capital sums from nine months after a resident vacates a unit, stopping weekly fees after a unit is vacated, committing to relicensing units as quickly as possible, and eliminating unfair clauses in ORAs.[9]

The Retirement Villages Residents Association has published a “Framework for fairness”, which sets out its recommended guidelines for achieving fairness and best practices in the sector.[10]

Overview of options

The Ministry is considering the following options.

These changes could be restricted to certain classes of retirement villages, such as larger, for-profit operators.

The requirements could be prospective (applying to new ORAs only) or retrospective (covering all existing ORAs).

Repayment of capital sum

Option 1: Mandatory repayment timeframe

- **Option 1A:** Require operators to repay capital sums to the resident or the resident’s estate within 6 months after a unit is vacated (if the unit is not resold sooner). This option would ensure that residents (or their estates) never need to wait more than six months to receive their capital sums.
  - Option 1A(i): Apply the 6-month timeframe for mandatory repayment only to new ORAs.
- **Option 1B:** Require operators to repay capital sums to the resident or resident’s estate within 12 months after a unit is vacated (if a unit is not resold sooner). This option would ensure that residents (or their estates) never need to wait more than 12 months to receive their capital sums.

9 Retirement Villages Association (2021) *Blueprint for New Zealand’s retirement villages sector*.

10 Retirement Villages Residents Association (2021) *Framework for fairness: Guidelines for achieving best practice in New Zealand retirement villages.*

- Option 1B(i): Apply the 12-month timeframe for mandatory repayment only to new ORAs.

Exemptions

- Certain classes of retirement villages could be exempt from the proposed mandatory repayment timeframes – for example not-for-profit villages.

Option 2: Requiring operators to pay interest on capital sums after a certain time

- **Option 2A:** Require interest to be paid on the capital sum if a unit is still unsold after 6 months.
- **Option 2B:** Require interest to be paid on the capital sum if a unit is still unsold after 9 months.

Weekly fees

Option 3: Require operators to stop charging weekly fees when a unit is vacated.

Capital gains/losses

Option 4: Limit residents' liability for a capital loss on the resale of their unit to the same extent as they would be entitled to any share of a capital gain.

So, for example:

- If no capital gains are shared with outgoing residents, residents are not liable for any capital loss.
- If 50% of capital gains are shared with residents, residents are liable for no more than 50% of any capital loss.
- If residents are entitled to 100% of the capital gains, they may be liable for 100% of any capital loss.

Treatment of fixed deductions

Option 5: Stop the fixed deductions (DMFs) from accruing once a unit is vacated (or shortly after that).

Intervention logic

An intervention logic map for these changes is set out below.

Intervention logic map: Financial exit matters

DRIVERS AND OPPORTUNITIES	**Context** Incoming residents to retirement villages are required to pay a capital sum for the right to occupy their unit. This capital sum is repaid (minus a fee, often called a "deferred management fee" - DMF) following termination of their Occupation Right Agreement (ORA), but there is no obligation for the operator to do so until the unit is resold.	**Problem** Financial exit terms currently favour operators. Operators may lack the incentive to quickly re-sell units after exit, as they continue to have interest-free use of the capital, and can continue charging weekly fees (though these must be reduced to 50% after 6 months). Some ORAs decrease the capital repayment by some or all of potential capital losses, without a share of any capital gains.	**Opportunities** Te Ara Ahunga Ora | Retirement Commission has recommended a policy review that considers options to improve the resale and buy-back process, and to restrict the charging of weekly fees after a resident vacates a unit.
INPUTS	**Key stakeholders:** The Ministry of Housing and Urban Development, MBIE, retirement village operators, retirement village residents (current and future) and their whānau. **Funding:** costs of regulatory change (govt). **Systems:** policy and regulatory mechanisms, market operations.	The desire to provide certainty and fairness for residents needs to be considered alongside operators' business models.	Amendments to the Retirement Villages Code of Practice 2008.
INTERVENTIONS	**Introduce minimum standards for financial exit:** • Guaranteed repayment timeframes after exit. • Stopping weekly fees on exit. • Requirement that residents can only be liable for a capital loss on resale to the same extent as they are entitled to a share of capital gains. • Stopping accrual of the DMF once unit is vacated.	Options for the repayment of capital sums are: • Requiring repayment within 6 or 12 months of exit. • Requiring interest to be paid on the capital sum if the unit remains unsold after 6 or 9 months.	Changes could be restricted to larger, for-profit operators. Implementation of requirements could be prospective (new ORAs only) or retrospective (covering existing ORAs).
OUTPUTS	Financial exit obligations on operators come into effect.	Operators implement requirements in the terms of ORAs, and adjust their cash reserves as necessary.	Guidance and information provided to operators and residents about the new requirements, and their rights and responsibilities.
SHORT-TERM OUTCOMES	Consumer protections for retirement village residents are enhanced.	Residents or their whānau don't pay for services they are not receiving, and ownership rights they are not getting the benefit of. Residents and their whānau have greater certainty about when they will receive their money.	There are increased incentives on operators to promptly relicense units. There are reduced instances of long wait-times for capital sum repayments.
MEDIUM-TERM OUTCOMES	There is an effective balance between the financial rights and responsibilities of residents and operators.	There are adequate consumer protections for residents and intending of retirement villages, and their whānau.	The on-going viability of the retirement villages sector, and its ability to provide a range of retirement housing options and consumer choice, is maintained.
LONG-TERM OUTCOMES	• The interests of residents and intending residents of retirement villages are protected • The development of retirement villages is enabled under a legal framework readily understandable by residents, intending residents, and operators		

Cost benefit analysis: Financial exit

Summary of costs and benefits

Quantified costs and benefits

Table 6, below provides a high-level summary of the quantifiable incremental costs and benefits of Options 1, 2 and 3, in PV terms. The appraisal period is 10 years, and we applied a discount rate of 5% consistent with Treasury CBA guidance.[11] Our assumptions are set out in Appendix 1.

For modelling purposes, Year 0 is the current year (2023) and we assume that any legislative changes would be passed in Year 1. We have made the following implementation assumptions for each option.

- Option 1 – We assume a transition time is required for some operators to adapt their business models to have sufficient cashflow before this option is imposed. We assume two years for this transition.
- Option 2 – We assume this would be implemented from year 1 (2024).
- Option 3 – We assume no transition time.

We applied sensitivity analysis to Option 1, based on different assumptions about the solvency threshold period for which operators need to hold capital in order to meet their repayment obligations. This resulted in a range of costs for this option.

The results show that, based on our current assumptions, Option 3 (stopping weekly fees) is the least costly option, but also has the lowest quantified benefits. It could be implemented in combination with either of the other options.

All options have a negative NPV based on the costs and benefits that we can quantify at this stage. To this end, the unquantified costs and benefits should also be considered alongside the results of the NPV.

11 https://www.treasury.govt.nz/information-and-services/state-sector-leadership/guidance/financial-reporting-policies-and-guidance/discount-rates.

Table 6: Summary of quantified costs and benefits for the financial exit options (10 years, 5% discount rate)

	Repayment of capital sum		Weekly fees
$millions	**Option 1: Mandatory repayment timeframe (at 6 or 12 months)**	**Option 2: Paying interest on capital sums (at 6 or 9 months)**	**Option 3: Cease weekly fees**
Present value of costs	Option 1A (repayment at 6-month): $265.567 - $1,103.115 Option 1B (repayment at 12-month): $120.712 - $501.416	Option 2A (units unsold after 6 months): $70.002 Option 2B (units unsold after 9 months): $29.585	$6.418
Present value of benefits	Option 1A (repayment at 6-month): $56.560 Option 1B (repayment at 12-month): $14.740	Option 2A (units unsold after 6 months): $66.801 Option 2B (units unsold after 9 months): $28.900	$1.715
NPV	Option 1A (repayment at 6-month): ($209.007) – ($1,046.556) Option 1B (repayment at 12-month): ($105.972) - ($486.676)	Option 2A (units unsold after 6 months): ($3.202) Option 2B (units unsold after 9 months): ($0.684)	($4.703)

Unquantified benefits and costs

A range of benefits and costs that would be generated by changes in the financial exit processes cannot be quantified at this stage. Taken together, these benefits and costs may be significant for both residents and operators. The sections below on "Unquantified costs and benefits" describes each of the benefits in more detail.

Table 7 provides a qualitative assessment of the potential magnitude of these benefits compared to the status quo. Option 1 will have the greatest impact on these benefits because of the greater certainty associated with a mandatory entitlement period. If any of the options are implemented together, this could increase the magnitude of total benefits.

Table 7: Potential magnitude of unquantified benefits under each option

Unquantified benefits	Option 1	Option 2	Option 3
Less stress and greater certainty for residents and their families	✓✓✓	✓	✓✓✓
Increased confidence in retirement villages	✓✓✓	✓	✓✓✓
Increased incentives for operators to maintain and improve villages	✓✓✓		
Reduction in time and financial costs associated with disputes related to financial entitlements	✓✓	✓	✓✓
Increased certainty for operators	✓✓		

Key:

✓ Low

✓✓ Moderate

✓✓✓High

Table 8 provides an assessment of the potential magnitude of the relevant non-quantifiable costs. Option 1 will have a greater impact on these costs than the other options because of the larger associated financial impacts. Again, although they are currently assessed as discrete options, any of the main options could be implemented together, which would increase the relevant costs.

Table 8: Potential magnitude of unquantified costs under each option

Unquantified costs	Option 1	Option 2	Option 3
Offsetting financial and service impacts on residents	✓✓✓	✓	✓✓
Reduced ability of some operators to maintain operations or to expand	✓✓		
Detrimental impact on the housing market	✓		

Key:

✓ Low

✓✓ Moderate

✓✓✓High

Option 1: Mandatory repayment timeframe at 6 or 12 months

Under this option, operators will be required to repay capital sums to residents or residents' estates within 6 or 12 months of the unit being vacated (if the unit is not resold earlier).

Option 1: Quantified costs and benefits

The potential impacts on operators

Requiring operators to repay capital sums within a set time will affect their cashflow, because of the amount of the reserves they will need in order to temporarily fund the exit entitlements (which are eventually paid back when the unit is resold). For each operator, this amount depends on:

- the vacancy rate and the standard time to reoccupy a unit in a retirement village
- the size of the retirement village, and
- the size of the exit entitlements.

These cashflow impacts result in an opportunity cost to operators.

Under the 6-month option (sub-option 1A), the cashflow impact in 2023 is estimated to be $722 million. At a pre-tax cost of capital of 10%, the opportunity costs range from $18.201 million (for a 3-month solvency threshold period) to $75.603 million (for a 12-month solvency threshold period).

Under the 12-month option (sub-option 1B), the cashflow impact in 2023 is estimated to be $328 million. At a pre-tax cost of capital of 10%, the opportunity costs range from $8.273 million (for a 3-month solvency threshold period) to $34.365 million (for a 12-month solvency threshold period).

In both cases, the opportunity costs will increase as the number and value of units increase over time.

The potential benefits to residents or their estates

By paying a proportion of affected residents (or their estates) their entitlements earlier, the residents are able to invest the amount received and obtain a return over the relevant period (the difference between when the settlement would have been made and the 12-month period). We assume the average difference in time is again four months and the average return the residents could receive is the long-term average 6-month deposit rate (that is, 3% per year). These benefits would accrue from the second year after this option is implemented.

The size of the benefit could be offset by any increase in charges (for example, weekly fees or deferred management fees) that operators impose on residents to make up for the opportunity costs. At this stage, we have not accounted for this potential second-order effect in the estimates but have identified these as unquantified costs.

Estimated costs and benefits

Based on these assumptions, our estimates of the current costs and benefits associated with Option 1 are presented in Table 9, Table 10 and Table 11.

For a mandatory repayment at six months, the PV of costs over 10 years (depending on the solvency period selected) is estimated to be between $265.6 million and $1,103.1 million and the PV of benefits is $56.6 million.

For a mandatory repayment at 12 months, the PV of costs over 10 years (depending on the solvency period selected) is estimated to be between $120.7 million and $501.4 million and the PV of benefits is $14.7 million.

Both sub-options result in negative NPVs.

Table 9: Quantified costs and benefits associated with Option 1 (10 years, 5% discount rate)

Costs and benefits - PV	Option 1A: repayment at 6-months	Option 1B: repayment at 12-months
Costs		
PV of opportunity cost impact of mandatory exit deadline: 3-to-12-month solvency threshold ($m)	($265.567) - ($1,103.115)	($120.712) – ($501.416)
Benefits		
PV of return on resident invested funds ($m)	$56.560	$14.740
NPV ($m)	**($209.007) – ($1,046.556)**	**($105.972) – ($486.676)**

Table 10: Undiscounted costs associated with Option 1 (10 years)

Costs	Option 1A: repayment at 6-months	Option 1B: repayment at 12-months
Opportunity cost impact of mandatory exit deadline: 3-to-12-month solvency threshold ($m)	($367.668) - ($1,527.224)	($167.122) – ($694.193)
Sector wide cost per unit ($)	$745 - $3,095	$339 - $1,407

Table 11:Annual profile of undiscounted costs associated with Option 1

Undiscounted costs	Option 1A: repayment at 6-months	Option 1B: repayment at 12-months
Annual opportunity cost impact of mandatory exit deadline: 3-to-12-month solvency threshold ($m)		
Year 0 - 2023		
Year 1		
Year 2	($23.418) - ($97.275)	($10.645) - ($44.216)
Year 3	($26.563) - ($110.339)	($12.074) - ($50.154)
Year 4	($30.131) - ($125.158)	($13.696) - ($56.89)
Year 5	($34.177) - ($141.967)	($15.535) - ($64.53)
Year 6	($38.768) - ($161.033)	($17.622) - ($73.197)
Year 7	($43.974) - ($182.66)	($19.988) - ($83.027)
Year 8	($49.88) - ($207.192)	($22.673) - ($94.178)
Year 9	($56.579) - ($235.018)	($25.718) - ($106.827)
Year 10	($64.178) - ($266.582)	($29.172) - ($121.174)
Total opportunity cost ($m)	**($367.668) - ($1,527.224)**	**($167.122) - ($694.193)**
Annual opportunity cost per unit: 3-to-12-month solvency threshold ($)		
Year 0 - 2023		
Year 1		
Year 2	($524) - ($2,176)	($238) - ($989)
Year 3	($566) - ($2,351)	($257) - ($1,068)
Year 4	($611) - ($2,539)	($278) - ($1,154)
Year 5	($660) - ($2,742)	($300) - ($1,246)
Year 6	($713) - ($2,961)	($324) - ($1,346)
Year 7	($770) - ($3,198)	($350) - ($1,454)
Year 8	($831) - ($3,454)	($378) - ($1,570)
Year 9	($898) - ($3,730)	($408) - ($1,696)
Year 10	($970) - ($4,029)	($441) - ($1,831)
Average opportunity cost per unit: ($)	**($745) - ($3,095)**	**($339) - ($1,407)**

Option 1: Unquantified costs and benefits

Table 12 and

Table 13 provide a qualitative assessment of the potential unquantifiable costs and benefits of Option 1. These impacts are described below in the section on "Unquantified costs and benefits".

Table 12: Potential magnitude of unquantified benefits under Option 1

Unquantified benefits	Option 1
Less stress and greater certainty for residents and their families	✓✓✓
Increased confidence in retirement villages	✓✓✓
Increased incentives for operators to maintain and improve villages	✓✓✓
Reduction in time and financial costs associated with disputes related to financial entitlements	✓✓
Increased certainty for operators	✓✓

Table 13: Potential magnitude of unquantified costs under Option 1

Unquantified costs	Option 1
Offsetting financial and service impacts on residents	✓✓✓
Reduced ability of some operators to maintain operations or to expand	✓✓
Detrimental impact on the housing market	✓

Key:

✓ Low

✓✓ Moderate

✓✓✓ High

Option 2: Require operators to pay interest on the capital sum after a certain time

Under this option, operators would be required to pay interest to a resident on the capital sum if their unit remains unsold after a certain period (for example, 4, 6 or 9 months).

We have modelled options for 6 and 9 months. We did not model a 4-month option because data on the number of units that remain unsold after this period is not available.

Option 2: Quantified costs and benefits

Our estimates of the current costs and benefits associated with Option 2 are presented in Table 14. Based on the costs and benefits that can be quantified at this point, Option 2B is the less costly option and is closer to achieving a neutral NPV.

Table 14: Present value of quantified costs and benefits associated with Option 2, with interest payments after 6- and 9-months (10 years, 5% discount rate)

Costs and benefits ($m)	Option 2A (6 months)	Option 2B (9 months)
Costs (PV)		
PV of opportunity cost of debt to pay out interest	$70.002	$29.585
Benefits (PV)		
PV of return on resident invested funds	$66.801	$28.900
NPV	**($3.202)**	**($0.684)**

Option 2: Unquantified costs and benefits

Table 15 and Table 16 provide a qualitative assessment of the potential unquantifiable costs and benefits of Option 2. These impacts are described below in the section on "Unquantified costs and benefits".

Table 15: Potential magnitude of unquantified benefits under Option 2

Unquantified benefits	Option 2
Less stress and greater certainty for residents and their families	✓
Increased confidence in retirement villages	✓
Increased incentives for operators to maintain and improve villages	
Reduction in time and financial costs associated with disputes related to financial entitlements	✓
Increased certainty for operators	

Table 16: Potential magnitude of unquantified costs under Option 2

Unquantified costs	Option 2
Offsetting financial and service impacts on residents	✓
Reduced ability of some operators to maintain operations or to expand	
Detrimental impact on the housing market	

Key:

✓ Low

✓✓ Moderate

✓✓✓ High

Option 3: Weekly fees stop when a unit is vacated

Option 3: Quantified costs and benefits

Our estimates of the current costs and benefits associated with Option 3 are presented in Table 17. Based on the costs and benefits that can be quantified at this stage, this option has a negative NPV of $4.703 million.

Table 17: Present value of costs and benefits associated with Option 3 (10 years, 5% discount rate)

Costs and benefits ($m)	Total (PV)
Costs	
PV of opportunity cost of interest foregone	$6.418
Benefits	
PV of return on investment of weekly fees	$1.715
NPV	**($4.703)**

Option 3: Unquantified costs and benefits

Table 18 and Table 19 provide a qualitative assessment of the potential unquantifiable costs and benefits of Option 3. These impacts are described below in the section on “Unquantified costs and benefits”.

Table 18: Potential magnitude of unquantified benefits under Option 3

Unquantified benefits	Option 3
Less stress and greater certainty for residents and their families	✓✓✓
Increased confidence in retirement villages	✓✓✓
Increased incentives for operators to maintain and improve villages	
Reduction in time and financial costs associated with disputes related to financial entitlements	✓✓
Increased certainty for operators	

Table 19: Potential magnitude of unquantified costs under Option 3

Unquantified costs	Option 3
Offsetting financial and service impacts on residents	✓✓
Reduced ability of some operators to maintain operations or to expand	
Detrimental impact on the housing market	

Key:

✓ Low

✓✓ Moderate

✓✓✓ High

Unquantified costs and benefits

Unquantified benefits

Some of the benefits that would be generated by changes in financial exit terms cannot be quantified. Based on initial desk-based research and our own qualitative assessment, the most significant of these benefits are summarised below.

Less stress and greater certainty for residents and families

The wait for the exit payment can cause considerable distress and financial hardship for residents, and also for their families when they are managing a transition into aged care or are managing a deceased's estate. The payment can represent a significant proportion of a resident's wealth. Some residents may find they cannot afford to enter alternative facilities until the payment is made. The resident or their families would be better able to plan their financial affairs if they had more certainty about the maximum period until the exit entitlement is paid.

Increased confidence in retirement villages

Potential residents may be more confident about entering a village if they know their exit entitlement will be paid to them or their family within a set time. This could lead to increased business for, and investment in, retirement villages.

Increased incentives for operators to maintain and improve villages

A mandatory period for the exit payment will provide further incentives for operators to quickly resell existing units, for example by upgrading them, rather than focussing on potentially more profitable new units. It could also lead to greater consistency across operators in wait times for repayment, leading some to identify further ways to improve their competitiveness against other operators or against alternative accommodation options, for example by ensuring they offer attractive contract terms or through improved marketing. This would benefit existing and future residents.

Reduction in time and financial costs to residents and operators associated with financial disputes

In the past, a small proportion of complaints related to fees and charges. These have usually been less than 5% of formal complaints, although this increased to close to 14% in the six months to September 2022.

Increased certainty for operators

For some of the options, operators will know with certainty that they have to pay exit entitlements within the specified timeframe. This could improve their ability to plan and, over the long-term, improve their financial capacity.

Unquantified costs

Several of the costs that may be imposed on residents, retirement villages, and the housing market more generally cannot be quantified at this stage because of a lack of information. These qualitative costs are summarised below.

Offsetting financial and service impacts on residents

To be able to make earlier exit payments, operators may charge higher upfront prices for units or higher DMFs. Earlier payments may also reduce the ability of operators to develop and provide some services, such as aged care support. This could offset any gains made by existing or new residents from the repayment requirement, and reduce residents' access to services and care.

Conversely, the increased pressure on operators to sell a unit within the required time may result, in some cases, in units being sold for a lower upfront price, particularly if the deadline is looming. As most ORAs are licences to occupy, this would have no impact on most existing residents as the resale price is unrelated to their capital sum repayment. It would affect only those residents who have unit title.

There is also a potential non-quantifiable cost associated with stopping weekly fees when a resident leaves the unit. Assuming the village management and maintenance costs associated with the unit continue, these must be met by the remaining residents, and this may result in higher weekly fees for existing and new residents.

Reduced ability of some operators to maintain operations or to expand

Some operators may be unable to secure the necessary cash reserves or equity and therefore may not be able to continue to operate or may be constrained from expanding under Option 1.

This will be particularly the case for smaller and not-for-profit operators that do not have significant reserves to draw on, ultimately reducing competition in the industry. However, the larger, for-profit operators may be able to fill any future gaps in supply.

Detrimental impact on the housing market

Higher upfront prices or higher DMFs could lead to reduced demand for retirement villages and lead to greater demand for alternative housing or more retirees remaining in current housing, reducing housing supply and contributing to higher house prices.

Options that were not modelled

We were unable to model two of the five main options, and two of the sub-options, due to lack of data.

Mandatory repayment timeframes

Exemptions

The Ministry is considering exempting certain classes of retirement villages from the proposed mandatory repayment timeframes, for example not-for-profit villages. We have not been able to model the impact of exemptions, as this would require detailed information on sales of units by operator type, which is not available. However, we expect the exemptions would make it easier for these operators (reducing the total costs to them of this option), but also reduce the benefits to residents.

Applying the repayment requirement only to new ORAs - sub-options 1A(i) and 1B(i)

In order to model the sub-options of 1A(i) and 1B(i), we would need an estimate of the proportion of units to be relicensed each year under new ORAs. This data is not available. However, in the short- to medium-term, it would reduce both the benefits and the costs of the mandatory repayment timeframes option as we have modelled it. In the longer-term, as all ORAs come under the scope of the new requirement, the NPV relative to the other options would be the same as for Option 1.

Capital gains/losses

Option 4: Limit residents' liability for a capital loss on the resale of their unit to the same extent as they would be entitled to any share of a capital gain.

This option would limit a resident's liability for a capital loss on the resale of their unit to the same extent as they would be entitled to any share of the capital gains.

In order to model this, we would need to know how many ORAs contain provisions for sharing capital losses, how many of these units are resold each year, and of those, the extent and amount of capital losses arising each year. That data is not available. However, we would expect such capital losses to be relatively rare, and therefore we would expect this proposed change to have no impact on the vast majority of operators.

A review of ORAs in 2021 by Covenant Trustee found that only 69 villages included a capital loss clause without sharing capital gain. In following up with these operators, the Retirement Villages Association has found that some have since removed the capital loss clause from their ORAs. All other operators would be unaffected by the option.

Treatment of fixed deductions

Option 5: Stop the fixed deductions (DMFs) from accruing once a unit is vacated (or shortly after that).

DMFs can be between 20% and 30% of the value of the unit, and they can accrue over 2 to 5 years. To model the impacts of this option, we would need to know how many units are or will be vacated over 2, 3, 4 and 5 years, and within this, the various combinations of DMFs and accrual periods, and how many units are vacated before the DMFs are fully accrued across the different possible variations. This data is not available.

Dispute resolution

Current state: Dispute resolution

The current complaints and disputes resolution process

Residents' rights

Residents' rights relating to complaints and disputes are set out in the Code of Residents' Rights. Under the Code, residents have the right:

- to complain to the operator and to receive a response within a reasonable time
- to a speedy and efficient process for resolving disputes between the resident and the operator, or between residents, and
- to involve a support person or representative.

Two forms of dispute procedures

Complaints and disputes in a retirement village setting may occur between residents and operators, operators and residents, former residents and operators, or between residents.

The Retirement Villages Act sets out two forms of dispute procedures:

- Each operator must have a **facility for resolving residents' complaints**. The minimum procedures and requirements for setting up and operating this process are set out in the Retirement Villages Code of Practice 2008. If an informal complaint is not resolved or the resident chooses to skip that step, a resident can make a formal complaint. If a formal complaint cannot be resolved within 20 working days, the operator must refer it to the statutory supervisor for recommendations on a way forward. If a complaint is still unresolved after a further 20 working days, the operator must offer mediation.
- A **formal dispute resolution process**. Both residents and operators have the right to issue a dispute notice. When a dispute notice is given, the operator must appoint a disputes panel, from a list of people approved by the Retirement Commissioner. Parties can have legal representation before the disputes panel. The panel issues a final determination or decision, which is binding. Both parties have the right of appeal to the courts.

These processes are illustrated in Figure 2, below.

Costs

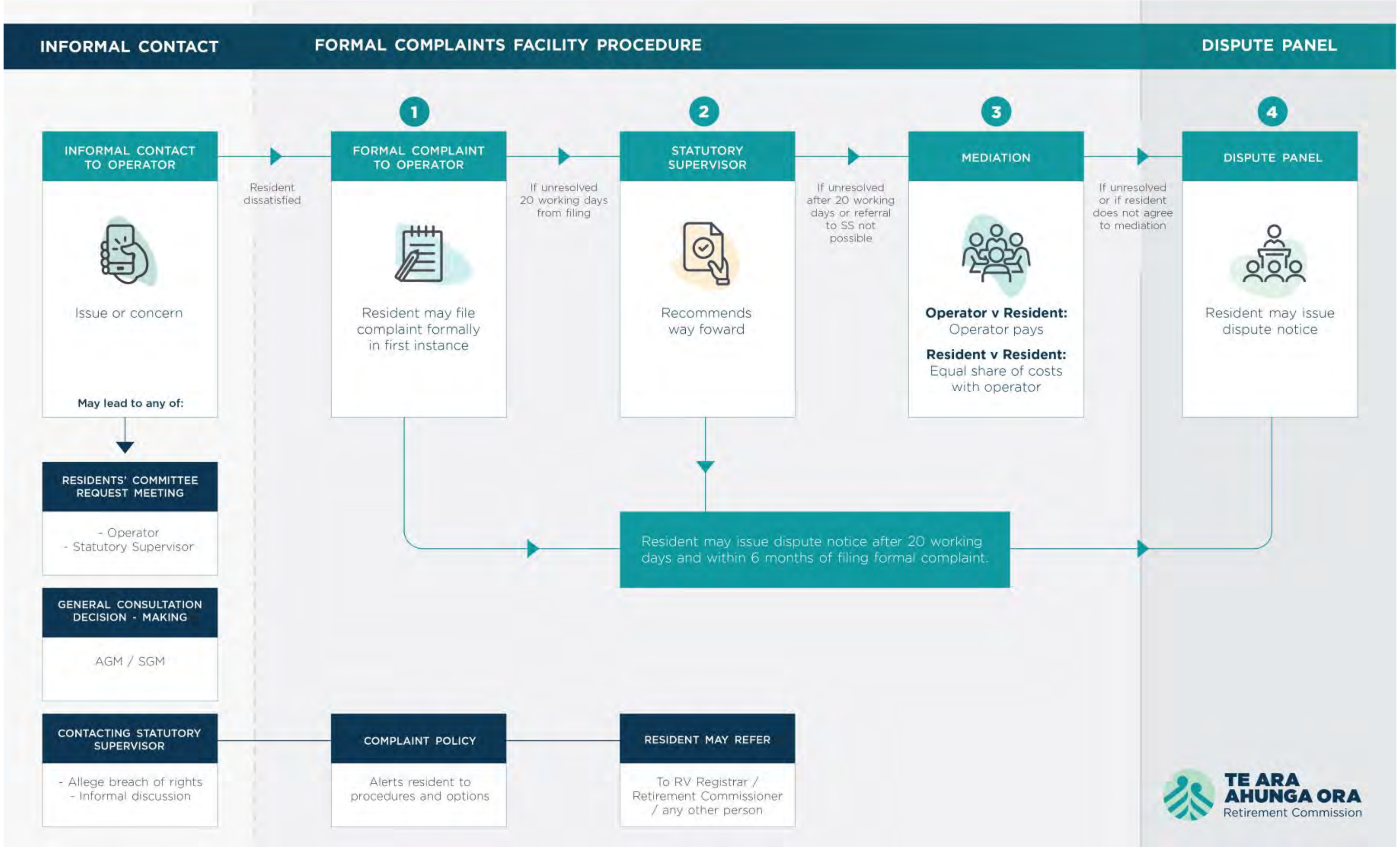
When a statutory supervisor is involved in a formal complaint, they charge the operator a separate fee on the basis of time and attendance. This fee is in addition to the annual fee they charge to operators. However, they typically charge this additional time only if it exceeds reasonable hours (that are covered by the annual fee).[12]

The operator pays the cost of the mediator, except if it is a dispute between residents, in which case the costs of mediation are shared between the residents and the operator. When a dispute panel is involved, the operator meets the costs of the panel, whether or not the operator is a party to the dispute.

Both operators and residents bear the costs of preparing for and attending meetings, including mediation and dispute panel meetings, and of any legal representation or expert advice they engage.

12 Mobius Research & Strategy (2018). *Monitoring the Effects of the Retirement Villages Act (2003): The effectiveness of statutory supervision.* Report for the Commission for Financial Capability. https://assets.retirement.govt.nz/public/Uploads/Monitoring-and-Reports/9bbc0afa50/CFFC-Effectiveness-of-Statutory-Supervision-Final-Report-June-2018.pdf.

Figure 2: Current process for complaints and disputes resolution



Source: *Retirement Villages Code of Practice 2008*, p. 33.

The volume of complaints and disputes

The number of formal complaints and disputes is low …

Operators must report to the Retirement Commissioner every six months on the number of formal complaints and matters relating to their complaints facility. Data on informal complaints is not centrally collected.

In the 12 months to 30 September 2022, operators reported that they received 542 formal complaints. Given there were around 38,557 retirement units in 2022, this implies that residents of around 2% of units complain each year. The most common types of complaints were about fees and charges, service levels and quality, behaviour of other residents, maintenance of buildings and grounds, and management and staff.

Statutory supervisors are involved in around 60–70 complaints a year. Around 10–15 complaints a year go to mediation. A small number progress to a dispute,[13] and two or three a year go to a disputes panel hearing.

… and reported resident satisfaction is high …

The Retirement Villages Association commissioned two research projects to investigate residents' attitudes and vulnerability. Done by UMR Insight in 2021, the research surveyed over 1,600 residents. The studies found that most residents were satisfied or very satisfied with living in their retirement village (86% in January 2021 and 91% in September 2021).[14]

… but the number of unrevealed complaints is not known

The 2020 White Paper by Te Ara Ahunga Ora | Retirement Commission states that complaints from residents are under-reported, as residents do not want to be seen to be making a fuss or fear that the village managers may not listen to them. Te Ara Ahunga Ora reported that residents find the dispute panel process to be adversarial, legalistic, and intimidating, and they also think the process takes too long.

[13] According to reporting by Te Ara Ahunga Ora, in 2021 seven dispute notices were issued, with one being withdrawn before the dispute panel hearing, and in 2022 seven dispute notices were issued (none withdrawn). These figures may not be comprehensive as not all operators remember to forward a copy of their dispute notice to Te Ara Ahunga Ora.

[14] Retirement Villages Association (2022) *RVA response to stakeholder concerns*. Te Ara Ahunga Ora RV stakeholders forum, 3 August 2022, Wellington.

There are also concerns that the financial model (particularly under the LTO model, which dominates the industry) creates a power imbalance between operators and residents. The financial model may make it difficult for residents to move out of a village if they have a complaint or dispute, and deter residents from making a complaint.

So while the number of formal complaints and disputes is low, this may not accurately reflect the real level of residents' problems and concerns. There may be latent demand for dispute resolution services, meaning residents' needs are going unmet. However, as noted above, overall satisfaction is reported to be high.

The Retirement Villages Association trialled an 0800 number to provide residents with access to advice on how to make a complaint or resolve a problem. The trial was run by FairWay in 11 Auckland villages, and promoted to existing and new residents. It received a very small number of calls (just eight in its first six months), which could suggest low numbers of unrevealed complaints.[15]

On the other hand, 28% of resident respondents to a survey by the Retirement Villages Residents Association indicated that the perceived or real cost stopped them making a complaint, and 20% indicated that the perceived or real financial cost stopped them.

15 FairWay Resolution Ltd (2022) *Retirement Villages Resident Advisory Service (RVRAS).* Report to RVA, December 2022; TAAORA (2022*) Retirement Villages complaints and disputes: an assessment.*

The case for change: Dispute resolution

Drivers for change

A range of concerns with the current dispute resolution system have been raised by stakeholders, and investigated by Te Ara Ahunga Ora.[16]

The process is complicated by the number of players

Several different agencies get approached by residents about issues relating to retirement villages, including the Commerce Commission, Consumer NZ, and Te Ara Ahunga Ora (including through an 0800 number operated by the Ministry of Business, Innovation and Employment). These agencies can give guidance but have no statutory powers to help resolve a complaint. For a breach of the Code of Residents' Rights or the Code of Practice, several parties can be notified; however, they do not have powers under the retirement villages legislation.

So, although a number of other players may be notified or become involved when there is a complaint, ultimately those agencies have to direct complainants back to the dispute panel process for a determination.

There is also an overlap with the Health and Disability Commissioner (HDC) scheme for complaints and disputes relating to aged-care services. Although complaints about aged-care facilities are the responsibility of the HDC, there can be an overlap when retirement village residents are in care suites.

16 Sources include: Bev James and CRESA (2015) *Retirement Villages Act 2003 Monitoring report disputes process report 2: the practice, experience and views of dispute resolution*; Commission for Financial Capability (2020) *Retirement villages legislative framework: assessment and options for change 2020* (white paper); Te Ara Ahunga Ora (2021) *Retirement villages legislative framework: assessment and options for change – submissions summary and recommendations 2021*; Retirement village complaints and disputes resolution online workshop 11 May 2022, hosted by Te Ara Ahunga Ora; Online meeting between Te Ara Ahunga Ora and dispute panellists 25 February 2022; Te Ara Ahunga Ora (2022) *Retirement villages complaints and disputes: an assessment.*

The process is seen as lacking independence

Statutory supervisors and dispute panellists are appointed and paid for by operators, which can be seen to impact their independence. There is no independent investigative function for complaints.

The current process is not differentiated for different types of complaints

The process is the same for complaints about contractual or other legal matters and for interpersonal complaints. The process is also the same for complaints involving operators and complaints between residents. Operators and statutory supervisors have noted that complaints between residents can be difficult for them to resolve as they involve interpersonal issues rather than legal issues.

The formal complaint and dispute resolution process is not user-friendly

As noted above, Te Ara Ahunga Ora reports that residents find the dispute panel process to be adversarial, legalistic, and intimidating.

Residents must also navigate the process themselves – for example, if their complaint is not resolved, they are responsible for escalating a dispute to determination.

There is no independent advocacy service for residents

There can be a power imbalance between residents and operators – in access to information and resources, for example.

Residents can approach various agencies for information and support, including the Retirement Village Residents Association, Te Ara Ahunga Ora, and Citizens Advice Bureaux. However, there is no dedicated advocacy support to help residents navigate the process and articulate their concerns.

Both parties may hire lawyers. However, residents may find this intimidating or expensive, and be less likely to do so than operators.

The current process does not meet best-practice principles for dispute resolution schemes

The Aotearoa Best Practice Disputes Resolution framework was developed by the Government Centre for Dispute Resolution. It is designed to be a tool for reviewing an existing dispute resolution scheme, or designing a new one.

In 2022, Te Ara Ahunga Ora did a preliminary assessment of the current system against the best-practice framework, and concluded that it does not sufficiently meet the principles and standards in this framework (see Table 20).[17] It recommended that regulators consider how an "Ombudsman/industry-type dispute resolution scheme" can be tailored for the retirement village industry, and that an effective advocacy service for residents be introduced, with the service funded by the industry (rather than being established by legislation).

[17] Te Ara Ahunga Ora (2022) *Retirement villages complaints and disputes: an assessment* TAAO-RV_Complaints-and-Disputes_an-assessment.pdf (retirement.govt.nz)

Table 20: Assessment of current scheme against best practice framework

Principles and standards	Assessment of current scheme and issues
User-focused and accessible • Consistent with Treaty of Waitangi • Accessible to all potential users	• Some residents too scared to use the scheme to complain as not seen as accessible or fair • Residents have too many people they can contact to discuss a concern or complaint that causes unnecessary complexity and confusion • Dispute panel is not user-friendly for residents – process is adversarial, intimidating and stressful
Independent and fair • Impartial • Independent • Information is used appropriately	• Operators have financial resources to engage legal counsel compared to residents in a dispute • Statutory supervisor appointed and paid for by operator • Statutory supervisor, mediation and disputes panel process paid for by operator • No independent investigative function of complaints built into the scheme
Efficient • Timely • Promotes early resolution and support prevention	• No structured early resolution process built into the scheme so to prevent disputes. Insufficient preliminary assessment of disputes to identify issues and the appropriate option for resolution • Determination of a dispute takes too long • No automatic escalation of complaint built into formal complaints process • Process around resolving breaches of Code of Residents' Rights lacks clarity
Effective • Properly resourced to carry out the service	• No free advocacy services built into the scheme for residents • Dispute panel process is adversarial and intimidating and stressful for residents. Whether it is appropriate to have a formal dispute resolution process specifically for Retirement Villages or if parties better served by an existing tribunal process

Principles and standards	Assessment of current scheme and issues
Accountable • Accountable through monitoring and data stewardship	• Retirement Commission monitors formal complaints and dispute panel process • Statutory supervisor some oversight of scheme if requested to be involved • No monitoring of the resolution of informal complaints process by operators

Source: Te Ara Ahunga Ora (2022) *Retirement villages complaints and disputes: an assessment*, p. 21.

Desired outcomes

The desired outcomes are for a dispute resolution system in which:

- the interests of residents and intending residents of retirement villages are protected, and
- the development of retirement villages is enabled under a legal framework readily understandable by residents, intending residents, and operators.

This system will provide a proportionate process for resolving complaints and disputes that is consistent with best practice principles and:

- meets the needs of residents of retirement villages and their families, including through being easy to access and navigate
- is efficient and cost-effective
- emphasises early resolution through negotiation between parties, and
- provides for investigation and determination by an independent decision maker where this is required to achieve a resolution.

Overview of options

We modelled the costs and benefits of the following four options.

Option 1 **Status quo**

Option 2 **Status quo with some improvements** to, among other things, make the process fairer for residents

Option 3 **Establish a new dispute resolution scheme** to replace the current formal complaint and dispute panel process, by either:

Option 3A Establishing a commissioner-based dispute resolution scheme,
or

Option 3B Appointing a dispute resolution provider to deliver a new scheme.

Common to both options 3A and 3B is the introduction of a **complaint assessor role**.

Option 2: Status quo with some improvements

The changes being considered include:

- streamlined pathways for some complaints to speed up and simplify the process (for example, omitting the statutory supervisor step for interpersonal complaints)
- dispute panel members no longer being appointed by operators (in order to strengthen the panel's independence)
- advocacy support for residents, to address the power imbalance when residents are negotiating with operators
- a pre-hearing settlement conference ahead of the dispute panel process set out in the Retirement Villages Act
- restricting the use of lawyers, to make the process less legalistic and reduce the impact of operators and residents having unequal resources, and
- clarifying the roles of other agencies who can currently be notified of potential breaches of the Code of Residents' Rights, in order to simplify the process.

Option 3: Establish a new dispute resolution scheme

This option involves replacing the current complaints and disputes resolution system with a new scheme based within Te Ara Ahunga Ora (the existing Office of the Retirement Commissioner), or a new scheme provided by an existing dispute resolution provider.

From the perspective of residents and their families, the new process would involve the following elements.

- **Informal complaints continue** – Residents, or their families or representatives, would still raise informal complaints with the operator (as with the status quo).
- **Option for formal complaint continues** – If the complaint is not resolved after a specified time, the complainant could make a formal complaint.

- **Formal complaints no longer go to operators** – A formal complaint would no longer be made to the operator. It would be made to the office of a commissioner or to provider of the dispute resolution scheme.
- **A one-stop shop for residents** – From the complainant's perspective, the commissioner or the scheme provider would be a one-stop shop:
  - A complaints assessor would have a range of options for resolving the complaint and would choose or recommend to the complainant the options that are most appropriate for their particular complaint. The assessor would guide the complainant through the process.
  - The complaints assessor would be responsible for requesting, collating, and assessing all the relevant information.
- **Mediation before adjudication** – Mediation would be attempted before the dispute is adjudicated on.
- **Appeal rights continue** – The option of appealing a determination to the District or High Court would continue.

The new "complaints assessor" role

This role would sit within the office of a commissioner or a dispute resolution scheme provider. The complaints assessor would decide the appropriate way to proceed with the complaint and would see the case through to a resolution.

A range of options for dealing with the complaint

A range of options would be available, so that the process can be tailored to the type of complaint. Options could include:

- closing the complaint (if the assessor decides it is frivolous or vexatious, or has already been adequately dealt with)
- redirecting the complaint if another scheme is better placed to deal with it (for example, to the Health and Disability Commissioner's complaint process if it relates to health services in a retirement village's residential care facility, or to a court)
- asking questions and seeking further information from the parties to the complaint, or from others with relevant expertise (for example, statutory supervisors)
- asking the operator to resolve the complaint with the resident directly
- offering mediation, and

- after mediation, or if mediation is not appropriate, forwarding the complaint to the new scheme's decision maker for a determination. Mediation might not be appropriate if, for example, it is a contractual or legal dispute.

If the assessor believes the operator and resident can work together to resolve the complaint, they could refer the complainant to an advocacy service for it to support the resident throughout the process.

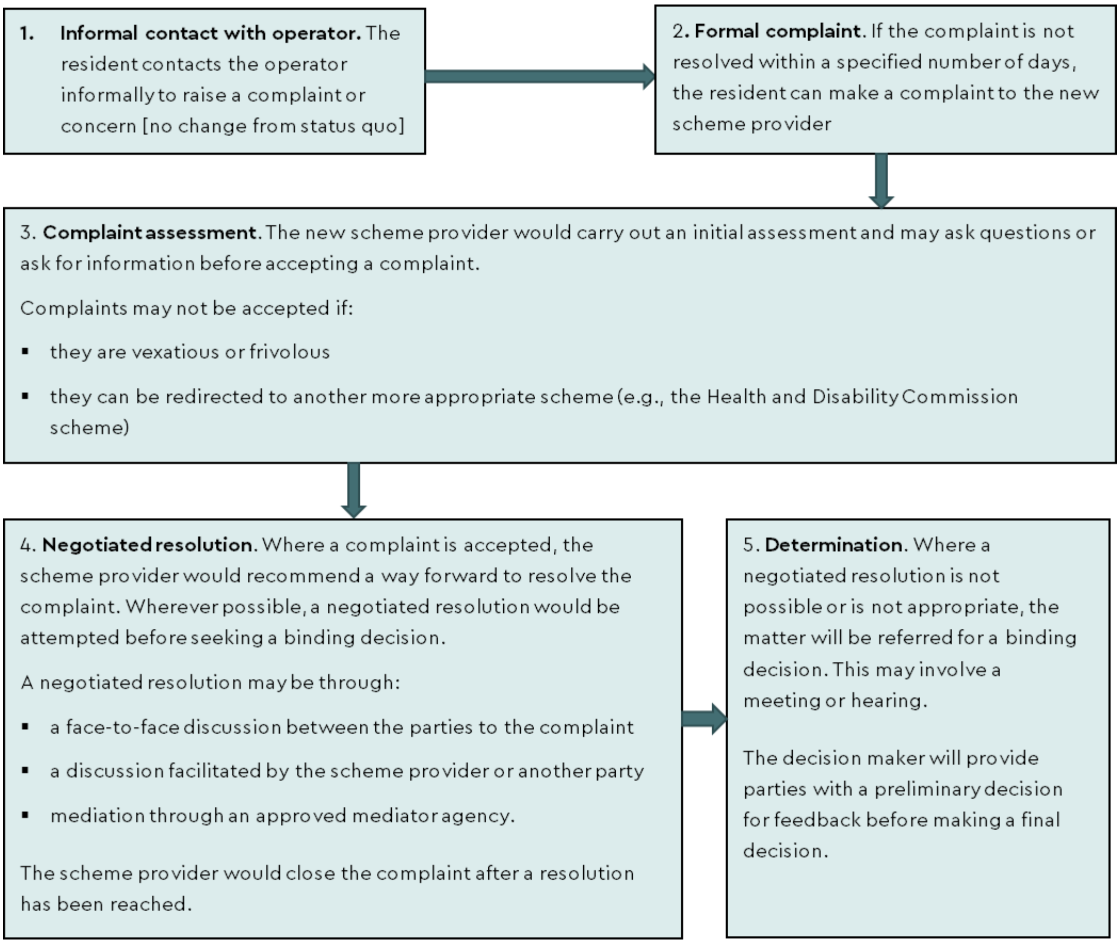
The approach taken to resolve the complaint would be appropriate for the type of complaint and its circumstances. The assessor would also be expected to take other considerations into account – for example, the health of the resident, or cultural considerations.

If the complaint is resolved through negotiation between the operator and resident, or through mediation, the complaints assessor would be notified of the outcome.

Where the complaint assessor considers a determination is required to resolve the complaint, a determination would be made by the Commissioner or an independent adjudicator.

At a high level, the proposed new process would follow the following steps (see Figure 3).

Figure 3: Proposed new disputes resolution process



Option 3A: Establish a commissioner-based dispute resolution scheme

This sub-option would involve:

- Establishing a new decision-maker role based in Te Ara Ahunga Ora (the Office of the Retirement Commissioner), and therefore independent of the retirement village sector, to make and enforce determinations if the parties have not been able to negotiate a resolution
- Introducing complaints assessors (based in Te Ara Ahunga Ora) for formal complaints, to make the process more accessible and user-friendly for residents and their families and provide direction on what action is taken to resolve the complaint

- Introducing an investigation process where complaints assessors request, collate, and assess relevant information to support a negotiated resolution, mediation, or a determination
- Authorising the independent decision maker to carry out investigations and make recommendations if they have identified systemic problems.

Option 3B: Appoint a dispute resolution provider to deliver a new scheme

This alternative sub-option involves:

- Contracting a provider of dispute resolution schemes to manage the resolution process when a complaint cannot be resolved between parties
- Making the process more accessible and user-friendly for residents and their families because the scheme provider gives direction on the appropriate action to take to resolve the complaint and also communicates with the other party.
- Introducing an investigation process where the scheme provider will request, collate, and assess relevant information to support a negotiated resolution, mediation, or a determination.

Funding a new scheme

The approach to funding a new scheme will be the subject of further work.

In general, commissioners are government-funded (as there is a public good provided, as with health services). Dispute resolution schemes are funded by levies on operators or companies, given that disputes are between a person and an operator or company.

There may be an option to fund a commissioner-based scheme through provider fees or levies.

Our CBA did not examine the distribution of costs under these alternative options.

Intervention logic

An intervention logic for the potential changes is set out below.

Intervention logic map: Dispute resolution

DRIVERS AND OPPORTUNITIES	**Context** Currently, around 48,000 people live in retirement villages in Aotearoa New Zealand. While the number of formal complaints and disputes is low, there may be latent demand because the system is not user-friendly and (under the LTO model) there is a power imbalance between residents and operators.	**Problem** The current process for formal complaints and disputes resolution does not meet the principles for best practice dispute resolution schemes. It is complicated, undifferentiated, and perceived as lacking independence. It is also adversarial and can be intimidating for residents. Residents' issues may be going unaddressed.	**Opportunities** Te Ara Ahunga Ora | Retirement Commission has recommended a review to streamline and formalise a clear and simple process. It is important that there is a robust, trusted, simple and accessible complaints process to ensure that issues arising are addressed in an appropriate and proportionate manner.
INPUTS	**Key stakeholders:** The Ministry of Housing and Urban Development, MBIE, Te Ara Ahunga Ora , retirement village operators, retirement village residents (current and future) and their whānau. **Funding:** establishment costs for a new scheme or complaint assessor role funded by govt. Operating costs for a new scheme may be recovered from industry. **Systems:** policy and regulatory mechanisms.	The new scheme is designed with input from residents, whānau and other stakeholders to ensure the needs of users are fully considered and incorporated into the design.	Amendments to Part 4 of the Retirement Villages Act 2003, the Retirement Villages (Disputes Panel) Regulations 2006, and sections 31 to 36 of the Retirement Villages Code of Practice 2008. New regulatory mechanisms as needed (eg, for cost recovery).
INTERVENTIONS	Establish a **new dispute resolution scheme** to replace the current formal complaint and dispute panel process. The new scheme would be either a commissioner-based scheme or an appointed scheme provider. Both options would include establishing a **complaint assessor role**.	A new system would be designed to better align with best practice principles for dispute resolution schemes. Services will be free for residents. A new system would replace the current roles of operators, statutory supervisors and dispute panels in resolving formal complaints and disputes. Informal complaints would still be raised with operators.	Aspects of the current scheme to be retained include: • the emphasis on early resolution • binding determinations by decision makers, and • the ability to appeal to the District or High Courts.
OUTPUTS	New commissioner role established and resourced, or scheme provider contracted; complaints assessor role established and resourced. Advocacy service made available. Investigations process established. Funding mechanisms established and implemented.	Strengthened accountability arrangements, including ability for the commissioner or scheme operator to identify systemic issues. Clear monitoring and reporting requirements established and implemented.	Guidance and information provided to operators and residents about the new scheme, and their rights and responsibilities.
SHORT-TERM OUTCOMES	The dispute resolution system is less adversarial and intimidating, and easier for residents to access. The system is simpler and easier for residents to navigate. The system provides for independent investigation and determination.	Residents and operators are aware of the new system and understand their rights and responsibilities.	
MEDIUM-TERM OUTCOMES	A proportionate, efficient and cost-effective dispute resolution system.	The system meets the needs of residents and their whānau. Residents receive better care and services.	The system helps address the power imbalance between residents and operators.
LONG-TERM OUTCOMES	• The interests of residents and intending residents of retirement villages are protected • The development of retirement villages is enabled under a legal framework readily understandable by residents, intending residents, and operators		

Cost benefit analysis: Dispute resolution

Summary of costs and benefits

Quantified costs and benefits

Table 21 below provides a high-level summary of the quantified costs of the options for dispute resolution, in present value (PV) terms, and relative to a continuation of the status quo. The same as for the financial exit terms, the appraisal period is 10 years, and we applied a discount rate of 5%. Our assumptions are set out in Appendix 1.

We applied sensitivity analysis to the new options, based on different assumptions about how much the rate of complaints (as a percentage of the number of units) might increase, which provides a range of costs for each option.

As for financial exit matters, we modelled costs and benefits for the ten-year period from Years 1 to year 10. We have made the following implementation assumptions for each option.

- Option 2 – we assume that changes under this option can be implemented from year 2 (2025) onwards.
- Option 3A and 3B – we assume that changes under these options can be implemented from year 3 (2026) onwards.

Cost comparison with the status quo

The results show that, based on our current assumptions, all the alternative options are more costly than the status quo.

Out of these alternatives, Option 3B (appoint a dispute resolution provider to deliver a new scheme) would involve the lowest additional costs. This is because it would cost less to contract an existing provider than it would to create a new commissioner-based scheme under option 3A, with its associated staff and overhead costs, and less than it would to add the additional services to the existing process under Option 2.

Table 21: Summary of quantified costs for the dispute resolution options (10 years, 5% discount rate)

	Option 1: Retain status quo	Option 2: Status quo with improvements	Option 3A: Establish a new commissioner-based scheme	Option 3B: Appoint a DR provider to deliver a new scheme
PV of costs ($m)	$7.676	$11.25 - $28.865	$8.47 - $16.118	$7.739 - $15.424
PV of incremental costs compared to status quo	-	$3.574 - $21.189	$0.795 - $8.442	$0.063 - $7.749

Unquantified benefits

A range of benefits that would be generated by changes in the dispute resolution processes cannot be quantified at this stage. Taken together, these benefits may be significant for both residents and operators.

Table 22 provides a qualitative assessment of the potential magnitude of these benefits compared to the status quo. The section below on "Unquantified benefits" describes these benefits in more detail.

Options 3A and 3B will provide the largest non-quantifiable benefits. It is possible that these will be larger for Option 3A because it is a scheme developed for and delivered through a dedicated Commissioner service (rather than contracted through a provider that probably also offers services to other parties). Under Option 3A, we have assumed the new scheme will be established as part of Te Ara Ahunga Ora | Retirement Commission, which will provide benefits through taking advantage of the Commission's knowledge of the retirement village sector and its reputation and relationships across the sector.

Table 22: Potential magnitude of unquantified benefits under each option

Non-quantifiable benefits	Option 2	Option 3A	Option 3B
Less stress and increased satisfaction for residents	✓	✓✓✓	✓✓✓
Value of time saved in complaints processes	✓	✓✓✓	✓✓
Avoided complaints and improved services	✓	✓✓	✓✓
Increased operator productivity		✓	✓
Increased confidence in and reputation of retirement villages		✓✓✓	✓✓
Increased cohesion amongst residents in villages		✓	✓

Key:

✓ Low

✓✓ Moderate

✓✓✓ High

Option 1: Status quo

Option 1: Quantified costs

Our estimates of the current costs associated with the status quo option are presented in Table 23. The PV of costs over 10 years is estimated at $7.676 million.

Table 23: Present value of costs associated with Option 1 (10 years, 5% discount rate)

Costs ($m)	Total (PV)
Statutory supervisors	$1.417
Mediation	$1.968
Dispute panels	$0.866
Operators' processes	$1.889
Expert advice for complaints involving third parties	$1.535
PV of total costs associated with Option 1 (status quo)	**$7.676**

Option 2: Status quo with some improvements

The main costs and costs savings for this option result from:

- providing new streamlined pathways for some complaints
- providing advocacy support for residents, and
- the probable reduction in the use of expert advice.

Option 2: Quantified costs

Our estimates of the current costs associated with Option 2 are presented in Table 24. The PV of costs over 10 years is estimated at between $11.250 and $28.865 million, depending on the increase in the rate of complaints.

The impact of this option on the growth in the number of complaints is uncertain. Given this uncertainty, we carried out a sensitivity analysis to test the impact on the estimates of different assumptions about the growth in the rate of complaints. These assumptions are set out in Appendix 1.

Note that Option 2 provides some limited cost savings compared to the status quo, relating to lower costs associated with providing expert advice (these have a PV of between $0.700 and $1.780 million and are incorporated in the relevant cost item). The incremental costs of Option 2 compared to the status quo are estimated at

$3.574 million for the base case, and $21.189 million if there was a significant increase in complaints.

Table 24: Present value of costs associated with Option 2 (10 years, 5% discount rate)

Costs ($m)	Base case (complaints are 2% of # of units)	Moderate increase in complaints (3% of # of units)	Significant increase in complaints (5% of # of units)
Statutory supervisors	$1.417	$2.191	$3.652
Mediation	$1.968	$3.043	$5.072
Dispute panels	$0.866	$1.339	$2.232
Operators' processes	$1.889	$2.921	$4.869
Expert advice for complaints involving third parties	$0.835	$1.305	$2.176
Advocacy support services	$4.275	$6.519	$10.865
PV of total costs of Option 2	**$11.250**	**$17.319**	**$28.865**
PV of incremental costs of Option 2 compared to status quo	**$3.574**	**$9.643**	**$21.189**

Option 2: Unquantified benefits

A qualitative assessment of the unquantified benefits of Option 2 is set out in Table 25. These benefits are explained below in the section on "Unquantified benefits".

Table 25: Potential magnitude of unquantified benefits of Option 2

Non-quantifiable benefits	Option 2
Less stress and increased satisfaction for residents	✓
Value of time saved in complaints processes	✓
Avoided complaints and improved services	✓
Increased operator productivity	
Increased confidence in and reputation of retirement villages	
Increased cohesion amongst residents in villages	

Key:

✓ Low

✓✓ Moderate

✓✓✓ High

Option 3A: Establish a commissioner-based dispute resolution scheme

Under this option, Te Ara Ahunga Ora | Retirement Commission effectively takes over receiving, assessing, and deciding on all formal complaints, but not informal complaints.

We have assumed the new function would be located in Te Ara Ahunga Ora rather than a new Commissioner office being established.

Option 3A: Quantified costs

Our estimates of the current costs associated with Option 3A are presented in Table 26.

The extent to which the volume of complaints will change under this option is uncertain. The Retirement Villages Residents Association believes the number of complaints will increase significantly if there is a more user-friendly and independent scheme. However, advice from the Banking Ombudsman suggests that increased awareness of a scheme does not result in any additional growth in complaints.

As with Option 2, we carried out a sensitivity analysis to explore the impacts on the cost estimates of different assumptions about how much the rate of complaints might increase. These assumptions are set out in Appendix 1.

The PV of costs ranges from $8.470 million for the base case, to $16.118 million if there is a significant increase in complaints.

As well as additional costs, Option 3A provides cost savings compared to the status quo, relating to the reductions in statutory supervisor costs, disputes panel costs, expert advisory costs and operator complaint processing costs (these have a PV of between $2.933 and $7.352 million and are incorporated into the cost figures). Under this option, the incremental costs compared to the status quo are estimated at $0.795 million for the base case, and $8.442 million for a significant increase in complaints.

Table 26: Present value of costs associated with Option 3A (10 years, 5% discount rate)

Costs ($m)	Base case (complaints are 2% of # of units)	Initial significant growth in complaints, reducing to long-run average (from 16% pa to 8% pa)	Moderate increase complaints (3% of # of units)	Significant increase in complaints (5% of # of units)
Current scheme (up to Year 2)	$3.123	$3.422	$5.022	$8.369
New scheme (from Year 3 onwards)	$5.093	$5.415	$5.871	$7.495
Establishment costs	$0.254	$0.254	$0.254	$0.254
PV of total costs associated with Option 3A	**$8.470**	**$9.091**	**$11.147**	**$16.118**
PV of incremental costs of Option 3A compared to status quo	**$0.795**	**$1.415**	**$3.471**	**$8.442**

Option 3A: Unquantified benefits

A qualitative assessment of the unquantified benefits of Option 3A is set out in Table 27.

Table 27: Potential magnitude of unquantified benefits of Option 3A

Non-quantifiable benefits	Option 3A
Less stress and increased satisfaction for residents	✓✓✓
Value of time saved in complaints processes	✓✓✓
Avoided complaints and improved services	✓✓
Increased operator productivity	✓
Increased confidence in and reputation of retirement villages	✓✓✓
Increased cohesion amongst residents in villages	✓

Key:

✓ Low

✓✓ Moderate

✓✓✓ High

Option 3B: Appoint a dispute resolution provider to deliver a new scheme

Under this option a contracted dispute-resolution provider takes over all receiving, assessing, and determining all formal complaints; they would not deal with informal complaints.

We assume the contracting process could be done by either the Ministry or Te Ara Ahunga Ora.

This contracting process would not necessarily require additional new funding (that is, it might be met from within existing baselines). However, we have included the cost in our estimates as there is an opportunity cost of this funding (in terms of the next best use of this money).

Option 3B: Quantified costs

Our estimates of the costs associated with Option 3B are presented in Table 28. We applied the same assumptions for the sensitivity analysis on the growth in the rate of complaints as for Option 3A. The PV of costs ranges from $7.739 million for the base case, to $15.424 million if there is a significant permanent increase in the rate of complaints.

As well as additional costs, Option 3B provides cost savings compared to the status quo. The savings are the same as for Option 3A (with a total PV of $2.933 – $7.352 million) and are incorporated into the costs in the table below. The incremental costs of Option 3B compared to the status quo are estimated at just over $63,000 for the base case and $7.749 million if there is a significant increase in the rate of complaints.

Table 28:Present value of costs associated with Option 3B (10 years, 5% discount rate)

Costs ($m)	Base case (complaints are 2% of # of units)	Initial significant growth in complaints, reducing to long-run average (from 16% pa to 8% pa)	Moderate increase in the proportion of complaints (3% of # of units)	Significant increase in the proportion of complaints (5% of # of units)
Current scheme (up to Year 2)	$3.123	$3.422	$5.022	$8.369
New scheme (from Year 3 onwards)	$4.325	$4.600	$5.141	$6.765
Establishment Costs	$0.290	$0.290	$0.290	$0.290
PV of total costs associated with Option 3B	**$7.739**	**$8.312**	**$10.453**	**$15.424**
PV of incremental costs of Option 3B compared to status quo	**$0.063**	**$0.636**	**$2.777**	**$7.749**

Option 3B: Unquantified benefits

A qualitative assessment of the unquantified benefits of Option 3B is set out in Table 29. These benefits are explained below in the section on "Unquantified benefits".

Table 29: Potential magnitude of unquantified benefits of Option 3B

Non-quantifiable benefits	Option 3B
Less stress and increased satisfaction for residents	✓✓✓
Value of time saved in complaints processes	✓✓
Avoided complaints and improved services	✓✓
Increased operator productivity	✓
Increased confidence in and reputation of retirement villages	✓✓
Increased cohesion amongst residents in villages	✓

Key:

✓ Low

✓✓ Moderate

✓✓✓ High

Unquantified benefits

A range of benefits that would be generated by changes in the dispute resolution processes cannot be quantified. Taken together, these benefits may be significant for both residents and operators.

Based on initial desk-based research and our own qualitative assessment, the most important of these benefits are the following.

Less stress and increased satisfaction for residents

- Under Options 3A and 3B, a complaints assessor would identify and gather the information needed to resolve each complaint, and residents would not have to rely on operators to get an understanding of their options and of how to navigate the process.

- Residents with no previous experience resolving disputes would probably find this process less intimidating and adversarial. They would feel more comfortable not having to engage directly with operators and would be less likely to need legal or other expert advice.
- Overall, the process would be expected to be less complicated and less stressful for residents, increasing their overall level of satisfaction.

Value of time saved in complaints processes

- With independent complaints assessors and decision makers, residents should spend less waiting for complaints to be processed and resolved.
- For example, a more systematic and centralised triaging and resolution process, including the use of a structured assessment process, could result in faster and also more consistent decisions. The assessor will also be able to select the level of process and investigation that is best suited to the nature of the complaint.
- The value of time saved could potentially be measured as the reduction in average waiting time multiplied by the average value of leisure time. However, it is not possible to determine the extent to which time may be reduced.

Avoided complaints and improved services

- The introduction of a user-friendly, independent process for complaints may provide some village operators with greater incentives to resolve complaints before they escalate, or to take early action to resolve the issues underpinning regular complaints and so avoid future complaints.
- This catalytic effect should reduce the future costs associated with complaints and improve the level of services in retirement villages.
- An independent process will also allow operators to seek guidance for disputes. It will also direct residents with potentially vexatious disputes for an assessment on whether their complaint is likely to be accepted.

Increases in operators' productivity

- Because operators will not have to process as many complaints themselves, they can use the time saved to work on their villages’ operations and services, leading to increases in their productivity.

Increased confidence in retirement villages, and a better reputation

- The existence of a trusted, independent dispute resolution service, which is seen as efficiently and fairly dealing with complaints and disputes, could increase the level of confidence that existing and potential residents have in retirement village living.

- Such a service could also reduce the likelihood of adverse publicity resulting from resident concerns and therefore the likelihood of potential damage to the image and reputation of retirement villages. Ultimately this could lead to increased investment in retirement villages over the long term.

Greater cohesion among residents in villages

- A more resident-friendly and less adversarial approach to resolving complaints, which would include those between residents, should contribute to less conflict among residents and help maintain neighbourly relationships.

Appendix 1: Assumptions underpinning the analysis

Implementation timeframes

For modelling purposes, Year 0 is the current year (2023) and we assume that any legislative changes would be passed in Year 1. Depending on the option, the timing of costs and benefits may vary. We have made the following implementation assumptions for each option. All costs and benefits are modelled for the 10-year period from Years 1 to 10.

Financial exit

- Option 1 – We assume a transition time is needed for some operators to adapt their business models to have sufficient cashflow before this option is imposed. We assume two years for this transition.
- Option 2 – We assume this would be implemented from year 1 (2024).
- Option 3 – We assume no transition time.

Dispute resolution

- Option 2 – We assume that changes under this option can be implemented from year 2 (2025) onwards.
- Option 3A and 3B – We assume that changes under these options can be implemented from year 3 (2026) onwards.

Financial exit

Option 1: Mandatory repayment timeframe at 6 or 12 months

Potential costs to operators

Across the sector, the cash flow impact can be calculated by estimating values for the variables shown in the table below. This is based on the mandatory exit entitlement payment (MEEP) impact estimates used in the Western Australian retirement village reforms.

Table 30: Variables for estimating cash flow impact of requiring repayment within a fixed time

Variable	
Average value of retirement village units	V
Total number of units	N
Average relicensing rate	VR
Total value of vacant units subject to a mandatory exit proposal	TV=V*N*VR
Average deferred management fee (DMF) charge	D
Total value of average capital gains/loss	CG
Proportion of residents whose contracts include capital gains	PCG
Residents average share of capital gains	RCG
Aggregate value of exit entitlements for vacant units	EE=[TV*(1-D)]-[CG*PCG*(1-RCG)]
The proportion of unoccupied units at mandatory exit deadline	P
Aggregate value of mandatory exit entitlement payments for units required to be funded at deadline	MEEP=EE*P

Source: Based on Western Australian Treasury Corporation (2022).[18]

18 Western Australian Treasury Corporation (2022). *Analysis of Potential Financial Impacts on Retirement Village Operators of Proposed Western Australian Retirement Villages Legislation Reform*. Prepared for the Department of Mines, Industry Regulation and Safety. Retrieved from https://www.commerce.wa.gov.au/sites/default/files/atoms/files/watc_report_rv_reform_financial_impact_assessment.pdf,12 May 2023.

Assumptions

We used the base assumptions from our dispute resolution model (set out below) and analysis by PWC in a Retirement Villages Association submission to the Social Services and Community Select Committee[19] to estimate these costs.

- The number of independent living units (ILUs), apartments and care suites: 40,517[20]
- Average sales price of an ILU: $600,000 (March 2022, based on 70% of median house price)
- Average deferred management fee: 25%
- Average repayment to outgoing resident: $450,000 (75% of $600,000)
- Average turnover/relicensing of units per year: 12%
- Any refurbishment or marketing charge associated with relicensed units is captured in the deferred management fee.

This means that there will be 4,862 units relicensed in the first year, with a total repayment amount of $2.19 billion in the first year.

- 77% of units are relicensed within six months; 91% are relicensed in nine months.[21]
- In the PwC analysis for the Retirement Villages Association submission[22], PwC assumes that the amount required by industry to meet a mandatory repayment period is fully equity funded (and we agree this is a reasonable assumption). Hence, they use a pre-tax cost of capital to represent the opportunity cost, which they indicate is the typical market return from the operation of a retirement village and which is the return foregone. They indicate the pre-tax cost of capital is 13%. However, the latest PWC reports on the cost of capital across industries indicates the average weighted average cost of capital (WACC) for health and aged care businesses is just over 10%.[23]

19 Retirement Villages Association (2022). *Submission to the Social Services and Community Select Committee*. Petition from the Retirement Villages Residents' Association (RVR). Appendix 2.

20 Estimate of the number of units in 2023 after applying the expected growth rate in units to the number of units available in 2021 as provided in JLL (2022) *New Zealand retirement villages and aged care*. Research report.

21 UMR (2022). *ORA Relicensing Data Report*. For the Retirement Villages Association.

22 Retirement Villages Association (2022). *Submission to the Social Services and Community Select Committee. Petition from the Retirement Villages Residents' Association (RVR).* Appendix 2.

23 See, for example, PwC New Zealand (2022). *Cost of Capital Report 2022*. https://www.PwC.co.nz/pdfs/2022/cost-of-capital-report-2022.pdf

- The PwC analysis for the Retirement Villages Association indicates that the opportunity cost depends on the solvency threshold period that operators need to hold capital to meet repayment obligations (PwC provide estimates for 3, 6 and 12 months in their report). PwC also assumes a 28-day repayment period obligation and note that the capital servicing requirements may be lower if the repayment period is longer. Given this, the $70 million to $250 million opportunity cost for one year that PwC has estimated is likely to be overly high. A more accurate estimate associated with a 12-month repayment period is required, particularly because the number of units impacted will be much smaller than with a 28-day period (although it will vary from month to month).
- There is no data available on the proportion of units that are settled in 12 months, although as indicated above, 91% are relicensed within 9 months and the Retirement Villages Association indicates that they encourage as many as possible to be relicensed with 12 months. We assume that around 95% of units are relicensed within 12 months.
- We also assume that the capital adequacy requirements placed on retirement villages by financial institutions is that they should be able to fund a reasonable "worst-case scenario" in any given year. We assume a buffer of 10% over and above the 5% of units not being relicensed in 12-months, a requirement to hold capital equivalent to 15% of the value of units being relicensed each year. The same 10% buffer is also applied to the 23% (100% – 77%) of units not being relicensed in six months, making the requirement to hold capital equivalent to 33% of the value of units relicensed each year. Using PWC's analysis and consistent with the Western Australia formula, we derive the following estimates, noting that there are several variables related to capital gains where data is not available at this time.

Table 31: Estimating the cash flow impact and capital adequacy requirements of a 6-month and 12-month repayment requirement in 2023

Variable		Option 1A: repayment at 6-month	Option 1B: repayment at 12-month
Average value of retirement village units	V	$600,000	$600,000
Total number of units	N	40,517	40,517
Average relicensing rate	VR	12%	12%
Total value of vacant units subject to a MEEP	TV=V*N*VR	$2.917 billion	$2.917 billion
Average deferred management fee charge	D	25%	25%
Total value for vacant units of average capital gains/loss	CG	Not available	Not available
Proportion of residents whose contracts include capital gains	PCG	Not available	Not available
Residents average share of capital gains	RCG	Not available	Not available
Aggregate value of exit entitlements for vacant units	EE=[TV*(1-D]-[CG*PCG*(1-RCG)]	$2.188 billion	$2.188 billion
The proportion of unoccupied units at mandatory exit deadline	P	23%	5%
Capital adequacy buffer	CA	10%	10%

Aggregate value of MEEPS for units required to be funded at deadline plus a 10% buffer	MEEP plus buffer =EE*(P+CA)	$722.007 million	$328.185 million

Option 2: Require interest to be paid on the capital sum after a certain time

- The Retirement Villages Association has suggested that the applicable interest rate could be set as the average of the six most recent observations of the 6-month term deposit rate published by RBNZ, plus a premium of 0.15%. As at May 2023, the applicable interest rate was 4.9%, although over the long-term the average is around 3.15%, which was the rate we applied in the benefit modelling.

Potential costs to operators

- We assume that this option does not require operators to significantly change their cash reserves or equity.
- We assume that operators pay the interest out of debt and the applicable cost is the long-run business lending interest rate of 9.4%.

Potential benefits to residents

- For the 6-month option, 14% of units would normally be settled between six and nine months. Using the same assumptions for Option 1, we then assume another 4% of units would be settled within 12 months, and another 5% would be settled within 16 months on average.
- For the 9-month option, 4% of the units are typically settled within 12 months and another 5% are settled within 16 months on average.
- These benefits may be offset by any increase in charges (for example, average weekly fees or DMFs) that operators impose. As for the previous options, we have not accounted for this potential second-order effect in the estimates but have identified this as non-quantifiable costs.

Other assumptions

- Based on JLL figures, we assume 5.03% per year growth in the number of units per year over the next 10 years.
- The average sales price of a unit increases by the long-term average increase in the value of housing (over the last 10 years), which is around 8% per year.

- The business lending rate remains constant over the long-term.
- The interest payments can be implemented from year 1.
- The requirement to make interest payments covers both existing and new ORAs.
- The proportion of exits/re-licensing per year remains constant over time at 12%.

Option 3: Stopping weekly fees when unit is vacated

Assumptions

- Weekly fees would cease within one month of a unit being vacated, consistent with good current practice.
- The proportion of exits/re-licensing per year remains constant over time at 12%.
- 44% of operators currently stop charging a weekly fee one month after a unit is vacated. We assume this represents 44% of the units that are relicensed each year.
- Residents continue to pay the weekly fee on the remaining 56% of units that come up for relicensing until they are relicensed.
- The average weekly fee, based on Retirement Villages Association data, is $140.
- The current practice is for the weekly fee to be halved six months after vacancy, if a unit has not been sold.
- The profile of sales and settlements is typically 38% in 3 months, another 39% by 6 months, another 14% by 9 months, another 4% by 12 months and another 5% by 16 months (as per UMR 2022 survey and the previous assumptions).
- Based on this profile, 44% of the units up for relicensing stop paying fees within one month while the remaining 56% of:
    - 38% of the units continuing to pay the weekly fees cease the payment within three months.
    - 39% of the units continuing to pay the weekly fees cease payment within six months.
    - 14% of the units continuing to pay the weekly fees cease payment within 9 months.
    - 4% of the units continuing to pay the weekly fees cease payment within 12 months.
    - 5% of the units continuing to pay the weekly fees cease payment within 16 months.

- To estimate the opportunity costs for operators, we assume they would have otherwise kept the income from fees invested and that the foregone rate of return is the WACC for health and aged care businesses of 10% per annum.
- To estimate the benefit for residents, we assume they invest what they don't have to pay in fees, and the rate of return they receive is the average six-month deposit rate of 3% per annum.

Dispute resolution process

Option 1: Status quo (base costs)

Under this option, the current process (informal complaint, formal complaint, statutory supervisor advice, mediation, disputes notice, dispute panel) continues.

Potential costs of the status quo

- **Statutory supervisor costs.** Based on a report prepared for the Commission for Financial Capability (now Te Ara Ahunga Ora), additional fees (on top of the annual fees) are charged by statutory supervisors on a time/attendance basis for dealing with resident complaints.[24] They typically change only if the extra time will exceed reasonable hours. We assume that the costs of the annual fees are passed through to residents in their weekly fees, but additional fee charges would be borne by operators. Around 60-70 complaints have involved statutory supervisors over the last three years (11%-13% of all complaints). Based on information provided to the Ministry by Covenant (the statutory supervisor for most retirement villages), we assume that the average cost of statutory supervisors' involvement in a complaint is $1,500.
- **Mediation costs**. Around 10-15 of formal complaints have required mediation each year over the last three years (2%-2.5% of all complaints). Based on Retirement Villages Association feedback provided to the Ministry, the cost of mediation is estimated to range from $10,000-$15,000. We assume mediation (including operators' process-related costs, mediator's preparation, pre-drafting and reporting) costs around $12,500 on average.
- **Disputes panel costs.** A cost of $20,000 per panel is estimated based on Retirement Villages Association feedback, and a previous 2015 study that

24 Mobius Research & Strategy (2018). *Monitoring the Effects of the Retirement Villages Act (2003): The effectiveness of statutory supervision*. Report for the Commission for Financial Capability. https://assets.retirement.govt.nz/public/Uploads/Monitoring-and-Reports/9bbc0afa50/CFFC-Effectiveness-of-Statutory-Supervision-Final-Report-June-2018.pdf

suggested a cost of $9,000-$20,000 per panel.[25] We assume this includes pre-hearing meetings, the exchange of written communication and so on, but does not include the legal costs involved (the 2015 study indicates that the panel cost estimates exclude additional fees for legal advice). Over the last three years, between two and 10 complaints have progressed to dispute notices each year and, of those, two or three have gone to a disputes panel (around 0.5% of total complaints).

- We assume the figures provided for complaints with "other parties" involve some form of professional support (for example, legal advice, tradesperson expertise, counsellors, and medical advice). There have been 60-75 of these types of complaints per year over the last three years (11%-14% of all complaints). Note that complaints involving "other parties" can also involve mediation or a disputes panel, so we assume this represents all cases involving legal costs. Assuming awards of costs represent an estimate of all professional service costs, a 2017 survey found that costs awarded ranged from $250 to $8,000.[26] We assume a range of $1,000-$2,000, with a midpoint of $1,500.
- We assume disputes without third parties incur no additional financial costs.
- **Process related or compliance costs** (that is, making and triaging complaints, including preparing paperwork and meetings but excluding costs of legal representation, mediation and disputes panel as noted above). We assume that there are no process-related financial costs for residents to submit complaints and attend meetings, although there are opportunity costs (which are not costed).
- There are financial costs to the operator in terms of time spent receiving, triaging, and resolving complaints – these costs will be limited for most complaints but can be $7,000 or more for complaints involving mediation. Assuming operators spend an average of four hours to process each complaint, the average processing cost is $240 per complaint (based on the average salary and overhead cost associated with a retirement village operations manager).

25 James, B with CRESA (2015). *Retirement Villages Act 2003 Monitoring Project: Disputes Process. Report 2: The Practice, Experience and Views of Dispute Resolution.* Prepared for the Commission for Financial Capability. https://assets.retirement.govt.nz/public/Uploads/Monitoring-and-Reports/06128f4914/Report-2-RV-disputes.pdf

26 Saville-Smith, K., James, B. and Fraser, R. (2017). *Retirement Village Intending Residents and the Effectiveness of Legal Advice.* Monitoring Report prepared for the Commission for Financial Capability. https://assets.retirement.govt.nz/public/Uploads/Monitoring-and-Reports/7214672af7/CRESA-Legal-Advice-Report-13-June.pdf

Other assumptions

Growth in complaints

- In the 12 months ended September 2022 there were 542 reported formal complaints, involving either no third parties, other parties, statutory supervisors, mediation and/or progression to a disputes panel. This excludes informal complaints.
- The most recent data shows that there were 334 formal complaints for the 6 months ending March 2023. We have doubled this to 668, to give an assumed annual figure for 2023. This is the starting point for the modelling.
- The number of formal complaints has increased by an average of 11% per year since 2018/19. Complaints will naturally tend to increase as the number/scale of retirement villages increases. In 2022, there were an estimated 38,557 retirement village units, which means that around 2% of all village units currently lodge a complaint. We have measured complaints on a village unit basis rather than by resident because units may have more than one resident. A report by commercial property company JLL suggests that the number of units will increase by around 5% per annum over 2023 to 2033.[27]
- Under the status quo, we assume the proportion of complaints remains at around 2%, which suggests the number of complaints will grow to around 1,457 by 2033 (or by around 8% per year).
- We assume that all types of disputes remain proportional to the total number of complaints each year (that is, those involving statutory supervision, mediation, a disputes panel).

Te Ara Ahunga Ora monitoring and reporting costs

- We assume that the costs to Te Ara Ahunga Ora for monitoring and reporting of complaints will not change significantly under any option (excluding monitoring of a contracted dispute resolution provider – see option 3B below).

Option 2: Status quo with some improvements

- We assume that changes under this option can be implemented from year 2 onwards (with Year 0 being the current year, 2023).

[27] JLL (2022). Retirement Villages Market Review 2022. Retrieved from https://www.jll.nz/content/dam/jll-com/documents/pdf/research/jll-research-retirement-villages-whitepaper-190722.pdf, 10 May 2023.

Potential costs

- There will be some **one-off costs** for familiarising residents and operators with the changes (for example, changes to information materials, website content, and potential information sessions).
- We assume ongoing education/marketing costs will not be any different to the status quo. There will also be costs associated with developing the new process for appointing the disputes panels and the advocacy support. The assumption is that this activity will not result in any additional costs above current expenditure levels (that is, they will be absorbed within current baselines).
- The **major additional cost is the provision of advocacy services**. Advocacy services for the HDC cost $3.5-4.0 million annually. In 2022, HDC's advocacy services were required for 2,971 (around 50%) of the complaints it received (amounting to around $1,190 per complaint) Assuming the service required by retirement villages is around 9% of HDC's cost (given the relative volume of complaints), advocacy support may cost $0.300-$0.350 million in the first year, increasing in future years in line with growth in the number of complaints.
- We assume this option will not impact on the overall costs associated with mediation and disputes panels (including appointing panel members for each dispute) – rather, it simply represents a transfer of costs from operators to Te Ara Ahunga Ora, noting that the Retirement Commissioner already approves the panel list.

Potential savings

- **Expert advice.** We assume the introduction of advocacy support reduces the need for professional advice for 50% of complaints that otherwise would have required this.

Sensitivity analysis

- Under the base case, we assume the proportion of complaints remains at around 2% of the number of units, which suggests the number of complaints will grow from 542 in 2022 to 1,457 by 2033 (or by around 8% per year).
- If there a moderate increase in complaints following the introduction of the changes and this is maintained over time, we assume the proportion of complaints increases to 3% of the number of units. This suggests that the number of complaints will grow to 1,985 by 2033.
- If there a strong increase in complaints following the introduction of the changes and this is maintained over time, we assume the proportion of complaints

increases to 5% of the number of units. This suggests that the number of complaints will grow to 3,309 by 2033.

Option 3A: Establish a commissioner-based dispute resolution scheme

- We assume that changes under this option can be implemented from year 3 onwards (given the time it will take to design the process, finalise funding, and set up the team).

Potential establishment costs

- **Establishment of processes** (for example, process design and establishment, including consultation with operators and residents). This may cost around $0.200 million.
- **Initial recruitment costs** associated with new assessor and investigator roles (for example, $20,000-$30,000 based on our professional experience with recruitment processes).
- There will be some **one-off costs** for familiarising residents and operators with the changes (for example, changes to information materials, website content, and potential information sessions). We assume this is $50,000.

Potential operating costs

- **Salaries of an assessor and an investigator.** Based on existing Retirement Commissioner and related roles, the combined salary would be around $0.300 million per year initially. Assuming this capacity can deal with the current number of complaints, there is likely to be a need for an additional investigator or assessor as the complaint numbers grow over time. For example, another FTE (with direct salary cost of $0.100 million per annum) might be needed when there are an additional 300 complaints a year. The timing of when additional staff are needed will depend on the growth rate of complaints (see below). We also assume that technology will not provide any significant efficiencies in terms of investigating or assessing complaints over the period (and if it did, we have no way of knowing what the impact might be).
- **Additional overheads associated with new roles** (including other personnel related costs such as training). Overheads vary by organisation but can be around 45% of salaries or a total of $135,000 per annum based on the above salaries in the initial year. For Te Ara Ahunga Ora, overheads are relatively small, representing around 20%-30% of salaries (equating to additional overheads of around $75,000). Overheads will increase in line with any additional recruitment over time.

- There may be **additional marketing and communication costs** each year associated with communicating how the process works to residents. Likely to be relatively low, around $50,000 per annum.
- There will need to be **commissioning budget for any additional expertise** including legal advice (for example, additional costs associated with more rigorous investigation and assessment processes beyond salary costs). We assume this starts at $50,000 and grows in line with the growth in the number of complaints.
- Based on the above assumptions, there will be additional operating costs of around $0.475 million per year initially. These costs will increase over time, to cater for growth in the number of complaints.
- We assume this option will not impact on the costs associated with mediation.

Potential savings from status quo

- There will be a reduction in statutory supervisor time and related costs associated with dealing with some interpersonal complaints. This is likely to be marginal as around 15% of complaints over the last three years have been related to resident behaviour and only a handful of these have involved statutory supervisors (2%-3% of the total complaints). We assume a reduction in statutory supervisor costs by 3% per year.
- Removal of dispute panel costs.
- Reduction in legal representation costs. We assume that legal costs represent 50% of expert advisory costs associated with complaints currently, and that these are halved under the new scheme.
- Removal of operator process-related costs.

Sensitivity analysis

- With the base case, we assumed the proportion of complaints remains at around 2% of the number of units, which amounts to growth of around 8% a year.
- Alternatively, there may be an initially strong increase in complaints following the introduction of the independent and perceived less costly scheme, which then reduces to the long-term average over time due to the improvements made and increased confidence in the process. For example, we assume the number of complaints grows by 16% over the first year of the scheme's implementation (that is, growth is twice as high as the long-run average) and reduces by 2% per year to reach the long-run average growth rate of 8% in four years after implementation. This suggests that the number of complaints will grow from 542 in 2022 now to 1,457 by 2033.

- We also applied the moderate and strong complaints growth scenarios that we used for Option 2.

Option 3B: Appoint a dispute resolution provider to deliver a new scheme

- We assume that changes under this option can be implemented from year 3 onwards.

Potential one-off establishment costs

- Establishment of processes (for example, process design and establishment, including consultation with operators and residents). As above, this may cost around $0.200 million.
- Initial procurement costs (for example, tender process, evaluation, negotiation, and contracting). This may cost around $60,000-$80,000.
- There will be some other one-off costs to familiarise residents and operators with the changes (for example, changes to information materials, website content, and potential information sessions). Assume this is $50,000.

Potential operating costs

- Contracting with a dispute resolution provider. Based on the Financial Dispute Resolution Service, which contracts FairWay and deals with a slightly smaller number of complaints per year (around 80% of current retirement village complaints), we assume the contracting cost might be worth $400,000[28] a year initially. This could scale up as the number of complaints increase over time. We assume this is a fixed price contract, with no variable element for more significant complaints.
- There may be additional marketing and communication costs each year associated with communicating how the process works. Likely to be low, around $50,000 per annum.
- There will be re-contracting costs every 4 – 5 years. We assume re-tendering is required, but there are some efficiencies from the initial process, so the cost might be an additional $50,000 every 4 – 5 years.
- There will be monitoring costs associated with managing the contract. We assume these can be absorbed within the provider's existing baselines.

28 We have assumed that the cost of contracting out the dispute resolution (DR) service to an established DR provider will be less than the cost of providing the service in-house.

- We assume this option will not impact on the costs associate with mediation.

Potential savings from status quo

- A reduction in statutory supervisor time and related costs dealing with some complaints, but likely to be at the margins. Again, we assume there is a reduction in statutory supervisor costs by 3% per year.
- Removal of dispute panel costs.
- Reduction in legal representation costs - we assume that legal costs represent 50% of expert advisory costs currently, and that these are halved under the new scheme.
- Removal of operator process-related costs.

Sensitivity analysis

- We used the same assumptions as for Option 3A, above.

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