



Briefing

RETIREMENT VILLAGES ACT 2003 REVIEW - OUTCOMES OF PUBLIC CONSULTATION AND NEXT STEPS FOR THE REVIEW			
To Minister	Hon Tama Potaka	Portfolio	Associate Housing
CC Minister	Hon Chris Bishop	Portfolio	Housing
Date	05/09/2024	Priority	Medium
Tracking number	HUD2024-004927		

ACTION SOUGHT	
Action sought	Note the outcomes of public consultation on the review of the Retirement Villages Act 2003 Agree to an approach for the next steps for the review
Deadline	19/09/2024

CONTACT FOR DISCUSSION			
Name	Position	Telephone	1st contact
Claire Leadbetter	Manager, Housing and Rental Markets	s 9(2)(a)	✓
Amanda Lewis	Senior Policy Advisor, Housing and Rental Markets	04 832 2464	

OTHER AGENCIES CONSULTED
Te Ara Ahunga Ora Retirement Commission, Ministry of Social Development - Office for Seniors, Ministry of Health, Health NZ, Ministry of Business, Innovation and Employment, The Treasury, Department of the Prime Minister and Cabinet, The Commerce Commission, Financial Markets Authority, Real Estate Authority, Te Puni Kōkiri, Ministry for Pacific Peoples, Ministry for Ethnic Communities, Ministry for Women, Office of the Privacy Commissioner, Ministry of Justice, Whaikaha, Ministry for Regulation



RECOMMENDED ACTIONS	
It is recommended that you:	
1. Note that while there was a high level of support across all stakeholder groups for many proposals in the 'Retirement Villages Act 2003: options for change' discussion paper, stakeholders had opposing views on some key proposals.	<i>Noted</i>
2. Agree that HUD progress the Retirement Villages Act 2003 review taking either: a. a broad approach – maintaining the current scope of the review OR b. a moderate approach – reducing the scope by progressing proposals in the 2023 discussion paper with high levels of support <u>and some priority areas for residents (HUD recommended)</u> OR c. a narrow approach – reducing the scope more significantly by progressing proposals in the 2023 discussion paper with high levels of support.	<i>Agree/Disagree</i> <i>Agree/Disagree</i> <i>Agree/Disagree</i>
3. Agree , subject to your agreement to recommendation 2b, that proposals in these three priority areas for residents will be progressed under a moderate approach: a. Operator-owned chattels and fixtures b. Complaints and disputes c. Capital sum repayments/interest payments.	<i>Agree/Disagree</i> <i>Agree/Disagree</i> <i>Agree/Disagree</i>
4. Note that under a moderate approach some topics in the discussion paper would be out of scope such as minimum building standards and the roles of government agencies; for some other topic areas, the scale of change would be reduced.	<i>Noted</i>
5. Note , subject to your decisions on recommendation 3, we will provide you with sequenced policy briefings on proposals for change in 2025, with Cabinet decisions in the first half of 2026.	<i>Noted</i>



6. **Forward** a copy of this briefing to Hon Casey Costello, Minister *Agree/disagree*
for Seniors.

C.D. Leadbetter

Claire Leadbetter
Manager, Housing and Rental Markets
5 / 9 / 2024

Hon Tama Potaka
Associate Minister of Housing
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Purpose

1. To report back on findings from public consultation on the review of the Retirement Villages Act 2003 (the Act) and to seek decisions on the next stages of the review, including on scope, priority proposals to progress, and timing.

Executive summary

Findings from public consultation on options for change

2. The Ministry of Housing and Urban Development (HUD) consulted on options for change to address issues with the retirement villages legislative framework from August to November 2023. **Annex A** has an overview of the legislative framework. The discussion paper reflected the review's broad scope covering a large number of topics across the key phases of retirement village living – moving in, living in and moving out – as well as other general topics. The objectives of the review include ensuring adequate consumer protection, balancing the rights and responsibilities of operators and residents, and ensuring the ongoing viability of the sector.
3. We have now completed our analysis of over 11,000 submissions, with the majority coming from residents who completed a questionnaire distributed by the Retirement Villages Residents' Association (RVR). We also received submissions directly from residents and family members, retirement village operators, lawyers, representative groups, consumer advocates, industry professionals and government agencies.
4. Many proposals to update the legislation and reflect sector best practice received high levels of support across all stakeholder types (including operators, residents and their representative organisations). For some other proposals, stakeholders had differing views with no middle ground emerging, including proposals to introduce a mandatory timeframe for repaying residents' capital sums when they leave a village. **Annex B** provides a summary of stakeholder views on key proposals in the discussion paper.

Scope and timing of the Retirement Villages Act 2003 review going forward

5. At a meeting with officials in May, given the number of priority areas across the housing portfolio, you indicated your interest in a lighter-touch review that included priority areas for residents. Our recommendation is to take a moderate approach to the review that progresses necessary minor or technical amendments to the legislation, options for change that are broadly supported by all stakeholder groups, and the following three high priority areas for residents and consumer advocates:
 - a. maintenance and repairs of operator-owned chattels and fixtures
 - b. complaints and disputes
 - c. capital repayments when residents move out of a village.



6. The terms considered by the Commerce Commission in its 2023 investigation into potentially unfair contract terms would be considered as part of the review. [REDACTED]
s 9(2)(g)(i) [REDACTED]
7. Under a moderate approach, we recommend some topic areas included in the 2023 discussion paper that have a lower impact on residents and would be complex to progress are out of scope (e.g. minimum building standards and roles of government agencies). For other topic areas, we recommend the scale of change is reduced. [REDACTED]
s 9(2)(f)(iv) [REDACTED]
8. Taking a moderate approach would address the most significant concerns with the current legislation and strengthen consumer protections for residents. Addressing the issues and supporting Code changes will require legislative change.
9. We do not recommend narrowing the approach further by excluding any of the priority areas for residents as this would not address some key issues and achieve the objectives of the review. While at the margins it could reduce the time needed for policy briefings in 2025, it would not have a significant impact on the legislative timeline. **Annex C** provides our analysis of approaches to the review and **Annex D** has information on the priority areas for residents.
10. Other regulatory programme priorities mean we have limited resource available, particularly through to the end of 2025. Under a moderate approach, the next steps would be providing you with sequenced policy briefings in 2025 before seeking Cabinet agreement for changes in 2026. An amendment bill would likely be introduced in the next Parliamentary term.
11. We are aware some stakeholders have suggested making amendments to the Code of Practice – either instead of a full legislative review, or as a first step to achieve some improvements for residents more quickly (i.e. before the end of 2025). We do not recommend this approach as Code changes would not address the most significant concerns with the legislation, and as a first step would delay broader legislative change. The Retirement Commission considers codifying some best practice changes would have a minimal impact and focussing on legislative changes would be a more effective use of limited resources.
12. Progressing with a lighter-touch review and not introducing an amendment bill this term could attract comment from key stakeholder groups including the RVR, which is currently leading a campaign advocating for continuing a full legislative review as a priority. The Retirement Commission considers it is important to share a timeline with stakeholders, so they understand how the review will progress.



Background

13. HUD is responsible for administering the Act, regulations and codes. The Retirement Commissioner is responsible for monitoring the effects of the legislation and has a role in providing information to the public and advice to the responsible minister. The Registrar for Retirement Villages is located in the Ministry of Business, Innovation and Employment. **Annex A** has an overview of the legislative framework.
14. An estimated 53,400 residents live in 470 villages across New Zealand.¹ This equates to 13 percent of the 383,000 New Zealanders aged over 75. Over two-thirds of the 39,000 units are provided by the largest six operators. A further 10,000 units are under construction and demand for retirement villages is predicted to continue to grow with the over 75 population forecast to double by 2048.²
15. The rights and obligations of residents and operators are set out in an occupation right agreement (ORA). While the legislative framework provides for a variety of models, around 95 percent of units are offered under a licence to occupy (LTO) model where residents pay a capital sum to occupy a unit, which is repaid minus a fixed deduction of around 30 percent when the unit is relicensed to the next resident.
16. Around 65 percent of retirement villages have an aged residential care facility on site. Moving to aged residential care in the same village is subject to a suitable room being available and cannot be guaranteed. Aged residential care is part of the health system, although retirement villages and health legislation overlaps where villages offer ORA care suites and residents pay a capital sum for aged residential care accommodation. Health NZ is currently leading a review of the funding and service models for aged residential care.

The case for reviewing retirement villages legislation

17. Protections in the Act include village registration, statutory supervision and mandatory independent legal advice before intending residents sign an ORA. Residents, representative organisations and consumer groups have raised concerns for many years about whether the legal framework provides adequate protections for residents, especially given the potential vulnerability of older people. ORAs are offered largely on a take it or leave it basis with very limited room to negotiate terms.
18. In 2020, the Retirement Commission engaged widely with sector stakeholders to identify and understand key challenges with the legislation. Following consultation on its White Paper, the Commission concluded many important issues that had previously been raised with the sector remained unresolved and change was difficult to achieve

¹ New Zealand retirement villages white paper, JLL, August 2024

² *ibid*



without regulation. The Commission's view was that voluntary sector improvements or piecemeal changes would be insufficient and recommended a full legislative review.³

19. Petitions calling for change have also been brought to Parliament. Sue Brown, a family member of a former resident, submitted a petition in 2020 focused on issues with transfers to aged residential care. The RVR submitted a petition in 2021 calling for a full legislative review and for capital sums to be repaid 28 days after a resident moves out of a village.
20. More recently the Commerce Commission investigated a complaint by the RVR about potentially unfair contract terms.⁴ The Commission found that some ORA terms could cause a significant imbalance in favour of the operator and potential detriment to residents. The Commerce Commission wrote to 12 retirement village operators about potential Fair Trading Act breaches earlier this year, s 9(2)(h)
21. The RVR is leading a new 'United for Seniors' campaign backed by organisations including Consumer NZ, GreyPower and Age Concern. The campaign invites the public to sign a petition confirming their support for a full legislative review.⁵

Public consultation on options for change

Scope and objectives of the review

22. HUD's review of the Act started in late 2022 with a broad scope covering the three main phases of retirement village living – moving in, living in, and moving out – as well as other general topics. While welcomed by the RVR and consumer groups, the Retirement Villages Association (RVA) (which represents more than 95 percent of the retirement village industry) did not initially support a full legislative review, preferring sector-led voluntary improvements.
23. The objectives of the review are to ensure:
 - a. adequate consumer protections for residents and intending residents of retirement villages,
 - b. an effective balance between the rights and responsibilities of residents and operators of retirement villages,
 - c. the on-going viability of the retirement village sector and its ability to provide a range of retirement housing options and consumer choice, and

³ The Retirement Commission released a white paper, Retirement Villages Legislative Framework Assessment and Options for Change in 2020, and a Submissions Summary and Recommendations in 2021, <https://retirement.govt.nz/retirement-villages/monitoring-and-reports/monitoring-reports>.

⁴ The Commerce Commission also investigated a complaint from Consumer NZ that raised issues under the Fair Trading Act relating to how certain operators were marketing their aged residential care services.

⁵ <https://www.unitedforseniors.org.nz/> Issues featuring in the campaign include capital repayment timeframes, the disputes resolution process, and maintenance and repairs of operator-owned chattels and fixtures.



- d. the rights and responsibilities of residents and operators are appropriately defined, including where they may differ for different occupancy rights.
24. The Coalition Agreement between the National and New Zealand First parties includes commitments to:
- a. progress the review of the Retirement Villages Act
 - b. liaise with retirement village owners and occupiers to seek a mutually agreed way forward to safeguard the interests of the 50,000 plus New Zealanders living in retirement villages.

HUD received 11,000 submissions on options for change

25. We released the discussion paper 'Review of the Retirement Villages Act 2003: Options for change' in August 2023. It covered around 20 topics with proposals that built on earlier work, particularly the Retirement Commission's White Paper but also the RVR's Framework for Fairness⁶ and the RVA's Blueprint for New Zealand's Retirement Villages Sector (the RVA's Blueprint).⁷
26. Given the complexity of the legislation and number of topics covered, the discussion paper was large, with 86 questions. The consultation period ran for three months and included four in-person consultation workshops in Auckland, Wellington, and Christchurch. HUD received submissions from retirement village residents and their families, operators, lawyers, academics, government agencies, and other retirement village industry professionals.
27. Over 10,500 submissions were questionnaires produced by the RVR, which distributed paper copies to residents. The questionnaire contained a selection of questions the RVR thought likely to be of most interest to residents. The RVR provided the questionnaires to HUD so written comments could be included in our qualitative analysis.
28. The discussion paper sought feedback on Māori interests in and experiences of retirement villages. We received limited information through the consultation process from Māori and other cohorts with lower representation in villages, such as ethnic, LGBTQIA+ and disabled communities.
29. We are preparing a summary of submissions for publication on HUD's website. We will complete the summary and have it ready for publication later this year. We will provide you with a copy ahead of publication.

⁶ [Framework-for-Fairness.pdf \(rvranz.org.nz\)](https://www.rvrnz.org.nz/framework-for-fairness.pdf)

⁷ [Blueprint for New Zealand's Retirement Villages Sector — Retirementlife.co.nz](https://www.retirementlife.co.nz/blueprint-for-new-zealand-s-retirement-villages-sector)



Some proposals in the discussion paper received high levels of support

30. Our analysis of submissions found there was broad agreement on the objectives of the review and on a number of proposed changes, including changes needed to update the Act to bring it in line with sector best practice and strengthen transparency. Table 1 provides examples of areas of agreement and summarises the positions set out in the RVR and RVA submissions. In some cases, individual residents and operators expressed different views in their submissions. A more detailed summary of stakeholder feedback by topic areas is provided in **Annex B**.

Table 1: Areas of RVR and RVA agreement

AREA	KEY EXAMPLES
Changes to update the Act	<ul style="list-style-type: none"> • Various changes to modernise the operation of the Retirement Villages Register
Changes to align with sector best practice	<ul style="list-style-type: none"> • Stop fixed deductions accruing when a resident moves out • Stop weekly fees when a resident moves out • Residents can only be liable for capital losses to the extent they are entitled to capital gains
Changes to strengthen transparency	<ul style="list-style-type: none"> • Reduce duplication in legal documentation • Require more comprehensive information about transfers to aged residential care in disclosure documents, including a statement that aged residential care cannot be guaranteed • Introduce a summary of key ORA terms for intending residents in a standardised format • Introduce a plain English version of the Code of Practice
Changes to increase protections for residents	<ul style="list-style-type: none"> • Require operators to hold insurance policies that along with other funds are sufficient to cover losses • Introduce restrictions on operators passing on insurance excesses to residents • Strengthen protections for residents' capital sums by enabling statutory supervisors to hold additional securities

In other areas, stakeholders hold different views

31. Submissions showed that stakeholders had different views on the scale of change they supported, and reconfirmed that chattels and fixtures, dispute resolution and capital repayments are contentious topics. Table 2 has examples of areas where stakeholder positions do not align, and summarises the positions set out in the RVA and RVR submissions. Again, there were exceptions and some individual operators and residents expressed different views.



Table 2: Areas where the RVR and RVA hold different positions

AREA	KEY EXAMPLES
The scale of change	<ul style="list-style-type: none">• For disclosure statements and ORAs, the RVA supported a key terms summary and reducing duplication, but not standardising the format and terms, or a maximum length. The RVR supported a higher level of change.• For the Code of Practice, the RVA supported a plain language version but not introducing a regular review or changes to the variation process. Again, the RVR supported a higher level of change.
Responsibility for operator-owned chattels and fixtures	<ul style="list-style-type: none">• The RVR supports requiring operators to pay for maintenance and repairs of operator-owned chattels; the RVA supports retaining flexibility.
A new dispute resolution scheme	<ul style="list-style-type: none">• The RVR supports a new independent complaints and dispute regime, while the RVA supports some changes to the current scheme.
Capital repayment timeframe when a resident moves out	<ul style="list-style-type: none">• The key area of disagreement is the proposal to introduce mandatory repayment timeframes. The RVR support introducing a timeframe (repayment within 28 days); the RVA is strongly opposed to any mandatory timeframe but would support interest payments if the unit is not relicensed after 9 months.
Retrospective application of changes	<ul style="list-style-type: none">• The RVR supported some changes applying to existing ORAs so all residents benefit from the changes. The RVA did not support this.

32. Some issues that were not covered in the discussion paper but were raised in submissions included transfers within a village to another independent living unit, access to home-based services, and restrictions on who can share a retirement village unit. HUD will consider these issues further to determine if or how they should be included in the review.



Next steps for the Retirement Villages Act review

33. At a meeting with officials in May, given the number of priority areas across the housing portfolio, you indicated your interest in a lighter touch review that included priority areas for residents. We have considered two options for a lighter touch review as well as the option of continuing with the current broad scope. These options would still require changes to the Act, regulations and codes.

A review limited only to Code of Practice changes would not address key challenges

34. We do not consider that limiting the review to Code of Practice changes alone is a potential option as it would be insufficient to address many significant challenges or make necessary updates to the Act. For example:
- a. many proposals deal with matters of substantive policy not appropriate for secondary legislation, such as establishing a timeframe for capital payments and/or interest payments
 - b. establishing a new dispute resolution scheme or changing the current scheme would require amendments to the Act and regulations
 - c. information requirements for disclosure statements and ORAs are in the Act.

35. s 9(2)(h)

Options for a lighter-touch legislative review

36. Table 3 has a summary of the options we considered for a lighter touch review. Further detail breaking down options by each topic included in the 2023 discussion paper is provided in **Annex C**.

Table 3: Options for the next stages of the review

OPTION	WHAT WOULD BE INCLUDED	KEY STAKEHOLDER VIEWS
Narrow approach	Options for change that have broad support summarised in Table 1 on page 9.	This option is likely to be supported by the RVA given changes it supports are within scope. The RVR, consumer advocates and Retirement Commission would not support this option as it does not go far enough to



OPTION	WHAT WOULD BE INCLUDED	KEY STAKEHOLDER VIEWS
		address key challenges with the legislative framework or improve fairness for residents.
<p>Moderate approach <i>HUD recommended</i></p>	<p>Options for change that have broad support across stakeholders (as per the narrow approach), plus three priority areas for residents:</p> <ul style="list-style-type: none"> • operator-owned chattels and fixtures • complaints and disputes • repayment of capital sums/interest payments. <p>Terms considered in the Commerce Commission investigation (paragraphs 45 – 47).</p>	<p>The RVA is unlikely to support the priority areas for residents being included, although some operators have different views on chattels and disputes. The RVR, consumer advocates and Retirement Commission will support the priority areas being included within scope but would prefer the review to continue with a broad scope to fully address all issues.</p>
<p>Broad approach</p>	<p>Topic areas and options for change in the 2023 discussion paper.</p>	<p>Preferred option for the RVR, consumer advocates, and the Retirement Commission who have advocated strongly for a full legislative review. Not preferred by the RVA.</p>

HUD recommends taking a moderate approach to improve consistency across the sector and address priority areas for residents

37. Taking a moderate approach to the review would progress many changes that have broad stakeholder support as well as three priority areas for residents. The terms investigated by the Commerce Commission where it found there is potentially a significant imbalance in the rights and responsibilities of operators and residents would also be within scope.
38. Many of the changes would align with sector best practice. Many, but not all, operators have already voluntarily adopted best practice but regulating would lift the minimum requirements and ensure there is consistency. For example, the RVA’s Blueprint asks operators to stop charging weekly fees once a unit is vacated and pay interest on outstanding capital sums if a former resident has not been repaid within nine months of moving out. Not all operators have voluntarily adopted these improvements.
39. The three priority areas for residents are based on concerns that have been raised over a number of years by the RVR, consumer advocates, and residents themselves.



The consultation process has reconfirmed that these are priority areas. **Annex D** has further detail on the three priority areas.

Table 4: Priority areas HUD recommends are included under a moderate approach

PRIORITY AREA	WHAT WOULD PROGRESS AND RATIONALE
<p>Chattels and fixtures</p>	<ul style="list-style-type: none"> • HUD consulted on requiring operators to pay for maintaining, repairing and replacing chattels and fixtures they own. • This is a key issue for residents and the RVR, Residents’ Council⁸ and many other stakeholders support the proposal. • While the RVA does not support this proposal, HUD understands a minority of operators have terms requiring residents to pay. • s 9(2)(h)
<p>Dispute resolution</p>	<ul style="list-style-type: none"> • HUD consulted on establishing a new scheme that would align with best practice principles. • This is a key issue for residents. The RVR, Residents’ Council and many other stakeholders consider the current scheme lacks independence, is complicated and not fit for purpose. • Then RVA and Corporate Trustees Association (which represents statutory supervisors) do not consider a new scheme is necessary but support some changes to the current scheme.
<p>Capital repayments</p>	<ul style="list-style-type: none"> • HUD consulted on a 6- or 12-month capital repayment timeframe and/or interest payments after 6 months. • This is a key issue for both residents and operators. • RVR is advocating for a 28-day repayment timeframe to provide fairness for residents. Other stakeholders who support the proposal have a range of views on an appropriate timeframe. • The RVA and Corporate Trustees Association is firmly against any mandated repayment timeframe due to increased risk of operator failure but supports interest payments on unpaid capital sums after 9 months.

⁸ The Retirement Villages’ Residents’ Council was established in 2023 to represent the interests of residents. It is funded by the RVA but operates independently.



40. Subject to your agreement to include these three priority areas, the next step would be to provide you with advice on policy options. For the dispute resolution scheme and repayment timeframe proposals further policy work would be required given the range of feedback on the options for change in the discussion paper.

Trade-offs with taking a moderate approach

41. There are trade-offs in reducing the scope of the review. Taking a moderate approach would not address the full range of challenges that have been identified with the current legislative framework.
42. Under a moderate approach, we recommend the following topic areas would be out of scope:
- a. **Minimum building standards:** we sought information through the consultation process on whether retirement village units should be required to meet standards. The consultation process did not uncover widespread issues with retirement village housing. We consider housing standards are best regulated through the Building Act.
 - b. **Roles of government agencies:** we sought information on whether a government agency should be tasked with monitoring compliance with the legislation, and whether an agency should have an overall leadership role. This was not a priority concern for most respondents, and we would consider whether the powers agencies currently have are sufficient under a moderate approach.
 - c. **Application of the Real Estate Agents Act:** we sought information on whether residents should have the same protections that apply when a licenced agent sells a property. Respondents had different views on whether this would be in the best interests of residents, and if there were more appropriate ways of enhancing protections.
43. For some other topic areas, the scale of change would be reduced. s 9(2)(f)(iv)
44. Any reduction in scope may be considered a missed opportunity by some stakeholders, such as RVR, Consumer NZ, and the Retirement Commission, to comprehensively address all challenges and ensure the legislation is fit for purpose now and into the future. However, the topics areas that would be out of scope under a moderate approach would have less impact than other higher priority areas, be complex to progress and would either require additional resource or slow the review process.



Commerce Commission investigation into unfair contract terms

45. The Commerce Commission investigated a complaint by the RVR about potentially unfair terms in ORAs. The Commerce Commission sent letters to 12 operators in February 2024 outlining its preliminary findings and reminding them of their obligations under the Fair Trading Act.⁹
46. The Commerce Commission's report to HUD in July 2024 summarised its findings:
- a. s 9(2)(h) [REDACTED]
 - b. s 9(2)(h) [REDACTED]
 - c. Some operators who responded do not intend to make changes to address the Commerce Commission's concerns, pending the outcome of HUD's review.
47. Only a court can decide if a breach of the Fair Trading Act has occurred. [REDACTED]
s 9(2)(h) [REDACTED]
[REDACTED] We would consider the Commerce Commission's preliminary findings under a moderate review approach.

Timing of next steps

48. Other regulatory programme priorities mean we have limited resource available for the review in the immediate term to the end of 2025. Under a moderate approach, the next steps would be providing you with sequenced policy briefings across 2025 followed by preparing a regulatory impact statement and paper seeking Cabinet agreement. It is likely that an amendment bill would be introduced in the next Parliamentary term.
49. The legislative framework is large and complex, and there are many significant challenges. Increasing the pace of the review in the immediate term would require additional resourcing and trade-offs with other priority areas in the housing regulatory work programme.
50. Table 5 provides an overview of the main steps in the legislative process and indicative timing for an amendment bill if we progress with the moderate approach.

⁹ Where relevant, the Commerce Commission's letters to operators included its preliminary findings into how operators were marketing aged residential care facilities following a complaint by Consumer NZ.



Table 5: Indicative timeline for legislative process

APPROXIMATE DATE	DESCRIPTION
Throughout 2025	Sequenced policy briefings on topics under review (likely to be 4 to 5 briefings)
January to April 2026	Regulatory impact statement and Cabinet paper prepared
April to June 2026	Cabinet approves policy changes
July 2026 to February 2027	HUD prepares drafting instructions and Parliamentary Counsel Office (PCO) drafts amendment bill [subject to PCO capacity, election timing and government formation, assumes no exposure draft]
March/April 2027	Cabinet approves bill for introduction. First reading and referral to select committee [subject to House time]
May to November 2027	Select committee considers amendment bill
End 2027/start 2028	Amendment bill reported back for second and third readings, royal assent Regulation making and Code Changes

We would not recommend delaying the legislative review to make Code changes as a first step

51. We considered whether making limited changes to the Code of Practice as a first step would achieve improvements for residents more quickly. We have discussed this option with the Retirement Commission and agree it is not our recommended approach for the following reasons:
- Changes that would be quick to make are those that reflect sector best practice. Given many operators have adopted best practice already, the impact on residents would be limited.
 - The most significant challenges with the legislative framework need to be addressed through the Act (see paragraphs 34 and 35).
 - Changes to the Code would delay the broader legislative review and would not be an effective use of limited resources.



Risks

52. Given strongly held and opposing views on some key options for change, decisions about the next steps in the review and the priority areas included within scope will attract attention from stakeholders.
53. Some stakeholders have expectations of a full legislative review, and concerns about a lighter touch review or the length of time to achieve legislative change would need to be addressed.

Consultation

54. The Retirement Commission and Office for Seniors do not support a reduction in scope and support a comprehensive review. The Retirement Commission considers progressing with the legislative review in full without delay would maintain momentum, preserve institutional knowledge and be the most efficient use of resources.
55. Other agencies provided feedback on aspects of the briefing but generally did not have strong views on the scope or timing of the next steps. Feedback included interest in understanding the impacts of the review from a human rights perspective and on particular communities, such as the disabled community.

Next steps

56. Once you have decided on a preferred scope for the next stages of the review, we can discuss options for communicating your preferred approach with key stakeholders. The Retirement Commission considers it is important to share a timeline with stakeholders so they understand how the review will progress.
57. HUD is preparing a summary of submissions received through the public consultation process which we will look to publish on our website later this year. We will provide you with a copy for information ahead of publication.

Annexes

Annex A: Retirement villages legislative framework

Annex B: Summary of stakeholder feedback on proposals

Annex C: Lighter touch options for the review

Annex D: Priority areas for residents



Annex A: Retirement villages legislative framework

RETIREMENT VILLAGES ACT 2003

The purpose of the Act is to protect the interests of residents and intending residents and enable retirement villages to develop under an easy-to-understand legal framework.

The Act includes the Code of Residents' Rights.

Retirement Villages Code of Practice 2008

Sets out the minimum requirements for operators of retirement villages.

Retirement Villages (General) Regulations 2006

Regulates disclosure of information, ORAs, registration, statutory supervisors and other matters.

Retirement Villages (Disputes Panel) Regulations 2006

Sets out the process for panel hearings to resolve disputes.

Retirement Villages (Fees) Regulations 2006

Sets out fees and penalties.

Purposes of the Retirement Villages Act 2003

In addition to the purposes above, the Act also has the following purposes:

- a) to promote understanding of the financial and occupancy interests of residents and intending residents
- b) to provide an industry-focused regulatory and monitoring regime for retirement villages that keeps compliance costs to a minimum
- c) to provide a way to introduce rules and procedures to give effect to the regime
- d) to oversee the conditions in which operators enter the sector and run retirement villages
- e) to create a secure environment for residents and protect their rights
- f) to provide the Registrar and the Retirement Commissioner with powers, functions, and duties relating to the Act.

Annex B: Summary of stakeholder feedback on proposals

This table provides a high-level summary of stakeholder feedback based primarily on qualitative analysis of written comments in submissions. It does not reflect where positions might have changed post 2023 consultation.

PROPOSAL AND QUESTIONS IN THE DISCUSSION PAPER	RESIDENTS Includes current and intending residents, family members, RVR and Residents' Council	OPERATORS Includes RVA	OTHER STAKEHOLDERS Consumer and stakeholder groups, statutory supervisors, legal sector, Government agencies
MOVING IN			
Shorter and simpler disclosure documents Which of the proposed options do you agree with? <ul style="list-style-type: none"> Option 1 – Two documents: A Village Comparison and Information Statement Option 2 – A new shorter Disclosure Statement 	High level of support Slightly higher support for Option 2. Residents who supported Option 1 said the separate village comparison would make it easier to compare villages. Those who supported Option 2 said having two documents would increase complexity.	Support Support in principle for documents to be easier for residents to understand. However, many operators expressed concerns about the feasibility of page and word count limits.	Support No clear preference around options, but common reasons given for supporting either option was simplicity, ease of comparison across villages, and ease of use for operators.
Improved regulatory tools for dealing with false, misleading or confusing statements Would the proposals to deal with false and misleading statements and inconsistency between a disclosure document and an ORA address the issues we have outlined?	High level of support Many residents considered that the proposals would make it easier for residents to hold operators to account, and that the current penalties are insufficient to deter false and misleading statements.	Very low/no support Mostly support for status quo. The most common reasons given were that the proposals duplicate existing functions under the Fair Trading Act 1986 (FTA), and that these provisions are sufficient.	Mixed views Some legal organisations told us the proposals were unnecessary as they would duplicate functions in the FTA. Other stakeholders, such as consumer advocacy groups, supported stronger regulatory tools to deal with false and misleading statements.
Introducing a partially standardised ORA Which of the proposed options do you agree with? <ul style="list-style-type: none"> Option 1 - Standardising the format (i.e., the headings and layout) Option 2 - Standardising both the format and some of the terms 	High level of support Strong support for option 2. The most common reasons for support were clarity, and ease of comparison between villages.	No support Common reasons were concerns about the feasibility of standardising ORAs and the risk of stifling innovation. [Note: the RVA supported some standardisation in post-consultation workshops with HUD.]	High level of support Strong support for option 2. The most common reasons were clarity, and enhanced consumer protection for residents and intending residents.
Power to declare ORA terms unfair Should a specific power be included in the Act to declare certain terms in ORAs to be unfair?	High level of support The most common suggestions for which body should hold this power were Government agencies (e.g. HUD, MBIE, MSD); the Retirement Commissioner or an Ombudsman.	No support The most common reasons given were that the proposals duplicate existing functions of the Commerce Commission under the FTA, and that these provisions are sufficient.	High level of support The most common suggestions for which body should hold this power were an independent complaints and dispute resolution provider, or a specialised Ombudsman for the RV industry.
LIVING IN			
Requiring operators to meet the direct costs of maintenance and repair of operator-owned chattels Do you agree with the proposal to assign responsibility, including the direct costs, to the operator, except in cases of intentional or careless damage or loss?	High level of support Common reasons for supporting the proposals included operators own these items and therefore should pay, and it is unfair to charge residents for repairs and maintenance of chattels/fixtures they haven't had exclusive use of.	Mixed views RVA and some individual operators did not support the proposal, as it would restrict a commercial setting and increase costs to operators. Other operators from a variety of village types supported the proposal, and some have already implemented this voluntarily.	High level of support Consumer NZ, Retirement Commission, Covenant Trustees Association, New Zealand Law Society are among stakeholders which supported the proposal.
A new independent complaints and dispute resolution scheme	High level of support Strong support for a scheme that is independent and unbiased, but with the opportunity for operators to resolve issues and complaints as a first step.	Low level of support Most operators who commented considered the current scheme was effective. The RVA supported the current scheme being retained. Operators	Mixed views Age Concern, Grey Power, Consumer NZ, the Retirement Commission and most legal professionals supported a new scheme. Corporate



PROPOSAL AND QUESTIONS IN THE DISCUSSION PAPER	RESIDENTS Includes current and intending residents, family members, RVR and Residents' Council	OPERATORS Includes RVA	OTHER STAKEHOLDERS Consumer and stakeholder groups, statutory supervisors, legal sector, Government agencies
Do you agree with the proposal to establish a new dispute resolution scheme that is independent of retirement village operators?		provided some suggestions for improvements to the current scheme.	Trustees Association supported retaining the current scheme with some changes.
More comprehensive information on transfers to aged residential care Should a clear statement that a suitable aged residential care unit cannot be guaranteed be included in disclosure documents?	High level of support The most common reason given was that intending residents should receive full and clear information about access to aged residential care.	High level of support Operators noted it was not possible to give residents a guarantee and were supportive of making sure this was made clear to intending residents.	High level of support Other stakeholders shared resident and operator views.
Information on occupancy levels of onsite aged residential care facilities What occupancy information should be provided? <ul style="list-style-type: none"> Average occupancy across the previous 12 months Current occupancy levels. 	Mixed views Residents had a slight preference for average occupancy data to provide a more accurate indication but noted limitations, including it could still be misleading and would need to be kept up to date.	Very low/no support Operators/RVA noted that occupancy levels fluctuate often and are not indicative of future occupancy. Potential for information to be misleading and lead to incorrect assumptions about villages.	Low levels of support Other stakeholders shared resident and operator views about the limitations of occupancy data.
Minimum building standards Do you think retirement villages should be required to be upgraded to meet certain building standards, such as the Healthy Homes Standards?	High level of support Submitters supported warm, dry homes for older people. Residents also raised accessibility of units, suggesting improvements to support safety and independence. RVR supported Healthy Homes Standards as a minimum requirement.	Mixed views Most operators and the RVA submitted that any new standards should be applied only to new units, or as units are refurbished for resale. Some operators supported strengthening minimum building standards, provided there was a transition period.	Support Many submitters supported measures to improve quality and safety of housing. Corporate Trustees Association supported additional requirements, but that they should only apply when units are relicensed.
MOVING OUT			
Mandatory repayment timeframe and/or interest payments Do you agree with: <ul style="list-style-type: none"> requiring operators to repay a former resident's capital sum within a fixed period after the unit fully vacated, and if so, how long should this period be? requiring operators to pay interest on a former resident's capital sum if the unit remains vacant after a specified number of months? 	High level of support Residents strongly supported introducing a repayment timeframe to improve fairness and provide certainty for residents. Many residents supported shorter timeframes than were proposed, with a high level of support for 28 days, and some support for repayments immediately, at 3 or at 6 months. There was also some support for a repayment timeframe combined with interest payments.	Very low/no support for a repayment timeframe Support for interest at 9 months There was very little/no support for a repayment timeframe. RVA was categorically opposed to a mandatory repayment timeframe. Instead, operators supported adopting current best practice, which was interest payments on unpaid capital sums after 9 months. Operators considered a repayment timeframe would put operators at risk and not be in the best interests of residents overall.	Mixed views Stakeholders who supported a repayment timeframe to improve fairness included the Law Society, Consumer NZ and Age Concern. Some commented interest payments would also improve fairness. Covenant Trustees Association supported interest payments after 9 months and was strongly against a repayment timeframe from a wider residents' protection perspective.
Stopping weekly fees Do you agree with the proposal to require operators to stop charging weekly fees upon a unit being vacated or shortly after?	High level of support The most common reason residents gave was that it was unfair to keep charging weekly fees after a resident had left, as they no longer have access to the services and facilities that fees pay for.	Support (with exceptions) RVA supports best practice – that operators stop charging fees. Some operators submitted that they still have costs to cover once residents move out or supported a reduced rate rather than stopping weekly fees altogether.	High level of support Submitters generally agreed with the proposal. Some noted that exemptions could be considered for smaller or not-for-profit villages.
Stopping fixed deductions from accruing after resident exits village Do you agree with the proposal to require fixed deductions to stop accruing upon a unit being vacated or very shortly after?	High level of support The most common reason residents gave was that it is unfair for the fixed deduction to keep accruing after residents have left, as they no longer have access to the village.	Support (with exceptions) RVA supports best practice – fixed deductions stop accruing. Some raised the need for exemptions for smaller or not-for-profit villages, and that operators need to have flexibility to offer a range of choices to residents.	Support Other stakeholders, including consumer, advocacy and legal groups, raised similar points to residents.



PROPOSAL AND QUESTIONS IN THE DISCUSSION PAPER	RESIDENTS Includes current and intending residents, family members, RVR and Residents' Council	OPERATORS Includes RVA	OTHER STAKEHOLDERS Consumer and stakeholder groups, statutory supervisors, legal sector, Government agencies
Limiting resident liability for capital losses Do you agree that operators should only be able to make a resident liable for a capital loss on resale of their unit to the same extent as they would be entitled to a capital gain?	Support The most common reason given for supporting the proposal was that it provided a fair balance of risk and reward between operators and residents.	Support Operators gave the same reasons for supporting the proposals as residents.	Support If implemented, legal professionals supported a standard formula to calculate capital gain/loss.
OTHER TOPICS			
Insurance cover and ability to pass on excess Do you agree with: <ul style="list-style-type: none"> requiring operators to have policies that are sufficient (alongside other funds) to pay out all residents' capital sums if a village is destroyed? restricting operators from passing on insurance excess to residents? 	High level of support Some noted that that capital sums for longer-term residents are not sufficient to cover the cost of moving to a replacement unit.	High level of support Operators noted the requirements need to reflect the products available. Operators \ supported insurance excess proposal as long as any existing agreements where excess can be passed on can be retained.	High level of support Corporate Trustees Association supported allowing for collective policies.
Personal property security Do you agree that statutory supervisors should have the ability to hold both land and personal property security on behalf of residents?	High level of support Residents supported this requirement to strengthen the protection of residents' capital sums.	High level of support Most operators supported statutory supervisors having discretion to hold a personal property security, provided bank lending is not affected.	High level of support Legal stakeholders and consumer advocates supported having more protection for residents' capital sums.
Operation of the Retirement Villages Register Do you agree the Registrar should have powers to: <ul style="list-style-type: none"> correct minor errors on the Register? specify how documents are to be filed? regulate Register searches? 	High level of support	High level of support Operators suggested that minor corrections should be double-checked with operators.	High level of support Some legal professionals were concerned that limiting the purposes for which the Register can be searched could affect the accessibility of information.
Improvements to the Code of Practice Do you agree with: <ul style="list-style-type: none"> introducing a regular review introducing a plain language version providing the Code in alternate formats changing the way the Code is varied changing requirements for AGMs? 	Mixed views Residents broadly supported a plain language code and regular reviews of the Code. The key theme was the Code needed to be clear and easy to understand. There was less support or limited understanding of the other changes suggested. Some commented about how the Code is enforced, suggesting this is unclear or difficult in practice.	Mixed views Operators supported the code being in plain language and easy to understand. Operators were less supportive of regular reviews (preferring reviews as issues emerge) and providing alternate formats. There was little/no support for changing the Code variation process. Operators broadly supported more flexibility around meetings.	Mixed views Other stakeholders shared resident and operator views. For example, the Law Society wanted more timely reviews and the entire Code updated to plain language to be more accessible. Corporate Trustees Association supported more flexibility around meetings.
Code of Residents' Rights Are changes needed, such as strengthening residents' obligations to one another?	High level of support Clear support for strengthening residents' obligations. Questions raised about enforcement.	High level of support Clear support for strengthening residents' obligations.	High level of support Clear support for strengthening residents' obligations.
Protections for the outgoing residents when their unit is relicensed/sold Should a third party (e.g. operator, real estate agent) have a duty to act in the best interests of the outgoing resident?	High level of support Residents support having protections for the outgoing resident.	Very low/no support Operators noted the different nature of the LTO model and that there are already protections for outgoing residents.	Mixed views Application of the Real Estate Agents Act not appropriate, current protections are sufficient, capital repayments timeframes would help protect outgoing residents.

Annex C: Lighter touch options for the review

This table does not provide an exhaustive list of all changes that might be made through the review. Other proposed changes to legislation that are less substantive have not been included.

Topic areas	WHAT WOULD PROGRESS UNDER DIFFERENT OPTIONS			Summary of key stakeholder views in 2023 submissions	HUD comment
	Narrow approach	Moderate approach	Broad approach (current scope)		
Disclosure statements	Proposals to <ol style="list-style-type: none"> require a key terms summary in an easy to read, standard format for all villages (to highlight key terms and make comparisons easier) reduce duplication and length through amending information requirements partially standardise disclosure statements (e.g. headings, layout) 	As for narrow scope	Proposals to <ol style="list-style-type: none"> require a summary document reduce duplication and length through amending information requirements partially standardise disclosure statements (e.g. headings, layout) make it easier for residents to take action on misleading or false statements strengthen Registrar's powers to act against false or misleading statements require inconsistent ORA and disclosure terms to be interpreted in the resident's favour 	<p>The only proposal the RVA supported in its submission was a key terms summary (proposal 1). However, it supported reducing duplication and some standardisation in post-consultation workshops with HUD.</p> <p>Retirement Commission supported a broad approach.</p> <p>The RVR's view was proposals under the broad approach did not go far enough.</p> <p>Residents' Council supported the summary of key terms, simplifying documents and power to take enforcement action against misleading or confusing statements.</p>	<p>Disclosure statements are too long and difficult to understand, some cannot be searched, cannot be compared across villages, and undertakings are hard to enforce.</p> <p>The RVA currently provides a key terms summary form it encourages members to use, with limited key information and tick boxes to enable easy comparison across villages.</p> <p>HUD hosted a series of workshops in late 2023 to reach agreement with stakeholders on information requirements in disclosure documents and ORAs.</p>
Occupation right agreements (ORAs)	Proposals to <ol style="list-style-type: none"> reduce duplication and length through amending the information requirements standardise some terms <ol style="list-style-type: none"> terms in legislation potentially other terms partially standardise ORA documents (e.g. headings and layout) 	As for narrow scope	Proposals to <ol style="list-style-type: none"> reduce duplication and length through amending the information requirements standardise some terms <ol style="list-style-type: none"> terms that are in legislation potentially other terms partially standardise ORA documents (e.g. headings and layout) s 9(2)(f)(iv) 	<p>RVA supported 1 and 2 in its submission but discussed other terms and partial standardisation in post-consultation workshops with HUD.</p> <p>Retirement Commission supported the broad approach.</p> <p>RVR supported standardising terms and structure, powers under Act to declare term unfair.</p> <p>Residents' Council supported standardising format and sector regulator with authority to declare terms unfair.</p>	<p>ORAs are long and complex, cannot be searched or compared, are generally non-negotiable and can contain unfair terms. Remedies under FT Act are slow, rely on Commerce Commission action and a court declaration that a specific term cannot be enforced or relied upon. A term permitted in legislation cannot be declared unfair under the FT Act.</p>

Topic areas	WHAT WOULD PROGRESS UNDER DIFFERENT OPTIONS			Summary of key stakeholder views in 2023 submissions	HUD comment
	Narrow approach	Moderate approach	Broad approach (current scope)		
Chattels and fixtures	Proposals to apply to new ORAs to: <ol style="list-style-type: none"> include definition of operator-owned chattels and fixtures in legislation require operators to list operator owned chattels for intending residents 	<u>In addition</u> to narrow approach <ol style="list-style-type: none"> require operators to pay for maintenance and repair of chattels and fixtures they own (excluding beyond fair wear and tear, negligent or intentional damage) require operators to replace chattels and fixtures when they wear out 	As for moderate approach <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p>Note these are proposals to be assessed as part of the review</p> </div>	RVA supported the narrow approach proposals, although some individual operators held different views. The Retirement Commission , RVR and Residents' Council supported operators being responsible for chattels they own.	A key issue for stakeholders. Additional costs to operators are likely to be recovered through increases to weekly fees for residents. Benefits to residents include removing the risk of facing large, unexpected costs. The Commerce Commission investigated potentially unfair contract terms related to this topic area. ^{s 9(2)(h)}
Complaints and disputes	Proposals to <ol style="list-style-type: none"> make changes to dispute panel member appointment process (appointment by a third party) 	<u>In addition</u> to narrow scope <ol style="list-style-type: none"> consider changes to processes for hearing disputes consider options to introduce advocacy support for residents consider options to expand scope of the dispute scheme and mandate of panel to make decisions OR <u>instead</u> <ol style="list-style-type: none"> establish a new scheme 	<u>Instead of</u> moderate scope approach, proposals to <ol style="list-style-type: none"> establish a new dispute resolution scheme aligned with best practice principles for dispute resolution to consider formal complaints and disputes consider options to introduce advocacy support for residents 	The RVA and Corporate Trustees Association considered there was insufficient evidence of problems with the current scheme, and the costs of a new scheme would be disproportionate. The Retirement Commission , RVR and Residents' Council supported a new scheme to avoid conflicts of interest and meet best practice principles for dispute resolution.	A key issue for stakeholders. The current scheme does not align with best practice principles for dispute resolution (effective, efficient, independent/fair, user-focussed/accessible and accountable). HUD considers there is evidence that the current scheme is not fit for purpose and does not address the power imbalance between parties. The current dispute panel process is adversarial, expensive, and infrequently used.
Transfers to aged residential care (ARC)	Proposals to <ol style="list-style-type: none"> include more comprehensive information in disclosure documents, including a statement that ARC cannot be guaranteed 	As for narrow scope	As for narrow scope	Key stakeholders all supported a clear, upfront statement that ARC beds are subject to availability and cannot be guaranteed, and for more comprehensive information in disclosure documents or policies available on request.	HUD consulted on including ARC occupancy information in disclosure statements but will not progress the proposal as information is quickly out of date and potentially misleading.
Minimum building standards	<i>No significant policy proposals would be progressed</i>	<i>No significant policy proposals would be progressed</i>	Consider options to ensure units are built or upgraded to a high standard and are warm, dry and accessible (e.g. healthy homes standards (HHS), accessibility standards)	RVA supports HHS implemented over time and members are encouraged to comply with HHS where items are replaced. RVR and Residents' Council supported the review covering building standards and accessibility.	The HHS were developed for rental properties (specifically targeting older standalone housing) and are implemented through regulations under the Residential Tenancies Act. It would not be straightforward to apply the standards to retirement villages. Units are covered by the Building Code.

Topic areas	WHAT WOULD PROGRESS UNDER DIFFERENT OPTIONS			Summary of key stakeholder views in 2023 submissions	HUD comment
	Narrow approach	Moderate approach	Broad approach (current scope)		
Repayment of residents' capital sum	Proposal to 1. require interest paid if unit not relicensed after 9 months	<u>Instead of</u> narrow approach, proposals to 1. introduce a mandatory timeframe for repayment of the capital sum (e.g., within six or 12 months of the unit being vacated) AND/OR 2. require interest after a specified number of months (e.g. three, six or nine months) AND/OR 3. making repayments available in certain circumstances by application (e.g. to enable residents to relocate) Consider exemptions/extensions.	As for moderate approach	RVA supports the narrow approach option. RVA and Corporate Trustees Association oppose any repayment timeframe. RVR supports repayment after 28 days. Residents' Council supports repayment timeframe of 9-12 months, interest after 3-6 months. The option of requiring operators to make early repayments available in some circumstances was not in the discussion paper but was raised through consultation.	Key issue under review for both operators and residents and no agreement on a middle ground emerged through consultation. Some operators already repay former residents after 6 or 9 months although this is not a contracted term. Further policy work still to be done for a capital repayment timeframe proposal including to understand the impact on smaller, rural and not for profit operators as relicensing can take longer, and how an exemption process might work). The RVR complaint to the Commerce Commission included potentially unfair contract terms related to this topic area. s 9(2)(h)
Stopping fees when resident vacates unit	Proposal to 1. require fees stop when unit vacated	As for narrow approach	As for narrow approach	Support from key stakeholders for stopping fees (although some smaller and NFP operators don't agree). Many operators do this already.	Proposed change reflects current best practice. The RVR complaint to the Commerce Commission included potentially unfair contract terms related to this topic area. s 9(2)(h)
Stopping fixed deductions accruing when resident vacates unit	Proposals to 1. require fixed deduction stops accruing when unit vacated 2. increase transparency on what fixed deduction covers	As for narrow approach	As for narrow approach	Support from key stakeholders for stopping accrual (although some smaller and NFP operators don't agree). Many operators are doing this already.	Proposed change reflects current best practice. The RVR complaint to the Commerce Commission included potentially unfair contract terms related to this topic area. s 9(2)(h)
Capital gains and losses	Proposal to 1. require that operators can only make residents liable for capital losses to the same extent they are entitled to a capital gain	As for narrow approach	As for narrow approach	Support from stakeholders. Resident capital loss clauses not common.	Proposed change reflects current best practice.
Definition of retirement village	<i>No significant policy proposals would be progressed</i>	<i>No significant policy proposals would be progressed</i>	Consider options to ensure the definition effectively enables a range of different village types to develop	RVA and Residents' Council are satisfied with current definition. RVR and NZ Law Society support improved clarity and differentiation from care facilities.	
Insurance	Proposals to	As for narrow approach	As for narrow approach	Support from all stakeholders – insurance requirements need to be	

Topic areas	WHAT WOULD PROGRESS UNDER DIFFERENT OPTIONS			Summary of key stakeholder views in 2023 submissions	HUD comment
	Narrow approach	Moderate approach	Broad approach (current scope)		
	<ol style="list-style-type: none"> update type of cover require policies alongside other funds to pay out capital sums if village destroyed restrict operators passing on insurance excess 			updated to reflect current practices and insurance products that are available to operators.	
Security for residents' sums	Proposals to <ol style="list-style-type: none"> have discretion for statutory supervisor to require General Security Agreement (GSA) require auditors to inform statutory supervisors of issues 	As for narrow approach	As for narrow approach	RVA and CTA support the proposals. RVR and Residents' Council support protections for residents.	
Roles of government agencies	<i>No significant policy proposals would be progressed</i>	<i>No significant policy proposals would be progressed</i>	Consider options to: <ol style="list-style-type: none"> ensure government agencies and statutory supervisors have sufficient powers monitor and audit compliance with legislation Combine policy and register functions in one agency (currently sit in HUD and MBIE) 	Retirement Commission suggested this should be covered by the review. RVA does not support changes. RVR and Residents' Council support broad approach.	No significant changes under a narrow or moderate approach. However, where there are gaps, functions and powers of Retirement Commissioner, statutory supervisors and Registrar could be adjusted through the review.
Retirement Villages Register	Various proposals to modernise provisions in the Act and reflect how the Register is operated in practice. Consider if Registrar's powers are adequate.	As for narrow approach	As for narrow approach	Proposals were developed with input from the Registrar. Support from all stakeholders.	Changes are needed to modernise the register and to reflect how the register is operated.
Code of Practice	Consider improvements to the Code: <ol style="list-style-type: none"> rewritten in plain language requirements for AGMs Code variation process 	As for narrow approach	Consider improvements to the Code: <ol style="list-style-type: none"> rewritten in plain language requirements for AGMs Code variation process alternative formats introduce a regular review 	The Retirement Commission suggested this topic be included in review. The RVA submission did not support changes to the variation process. The RVR and Residents' Council support introducing a regular review and changes to the variation process.	HUD considers the process for Code variations should be considered further under a narrow or moderate approach.
Code of Residents' Rights	Consider options to clarify residents' rights and responsibilities towards each other	As for narrow approach	As for narrow approach	Support from stakeholders.	
Offences and penalties	<i>No significant policy proposals would be progressed</i>	<i>No significant policy proposals would be progressed</i>	Consider options to change offences, penalties and enforcement tools under the Act	RVA does not support changes. Residents' Council not aware any changes needed.	
Application of Real Estate Agents Act	<i>No significant policy proposals would be progressed</i>	<i>No significant policy proposals would be progressed</i>	Consider options to enhance protections for the buyer and the outgoing resident when a unit is relicensed	RVA does not support changes. Residents' Council is not aware of any changes needed. RVR supports enhancing protections.	

Annex D: Priority areas for residents

	CHATELS AND FIXTURES	DISPUTE RESOLUTION	REPAYMENT OF CAPITAL SUMS
Summary of current situation	Legislation does not explicitly cover how the maintenance, repair and replacement of chattels and fixtures in village units are funded. Some operators have ORA terms making residents responsible for paying for maintenance and repairs of operator-owned chattels and fixtures. HUD understands a minority of operators have these terms with anecdotal evidence suggesting between 15 and 40 percent.	<p>The scheme does not align with best practice principles for dispute resolution. It is not independent of operators, and statutory supervisors and dispute panels are appointed by operators which affects perceptions of their independence.</p> <p>Residents may be reluctant to complain to the operator, the scheme can be complex to navigate and dispute panel hearings are expensive and adversarial. Only around 30 dispute panel decisions have been made since 2007.</p>	<p>Operators are required by the Code of Practice to repay capital sums after they have relicensed the unit and received payment from the incoming resident. There is no maximum repayment timeframe which creates uncertainty for former residents or their estate.</p> <p>RVA data shows the average relicensing time is four months, but some former residents have waited for up to two years to be repaid.</p> <p>Residents who want or need to relocate are effectively unable to leave a village unless they have other funds.</p> <p>Some operators repay former residents after 6 or 9 months although this is not a contracted term.</p>
Proposals s 9(2)(f)(iv)	s 9(2)(f)(iv) operators are required to meet the direct costs of the maintenance, repair and replacement of chattels and fixtures they own, (excluding beyond fair wear and tear, negligent or intentional damage, plus carve out where residents share in capital gain)	s 9(2)(f)(iv) <ul style="list-style-type: none"> A. replace the current scheme with a new scheme for formal complaints and disputes that is independent of operators and aligns with best practice principles for dispute resolution OR B. change the current scheme including: <ul style="list-style-type: none"> • change the appointment process for dispute panel members • change processes for hearing disputes, such as enabling panels to issue recommendations ahead of a hearing. <p>Advocacy support could also be considered under both options.</p>	s 9(2)(f)(iv) <ul style="list-style-type: none"> A. require operators to pay interest on a former resident's capital sum if the unit remains vacant after a specified number of months (this could be 3, 6 or 9 months) AND/OR B. require operators to repay a former resident's capital sum within a fixed period (6 or 12 months, potentially with exemptions/extensions) AND/OR C. require operators to make early repayments available in some circumstances. This option was not in the discussion paper but was raised through consultation.
Stakeholder positions	The RVA does not support this proposal, although individual operators hold mixed views. The Retirement Commission, RVR and Residents' Council support operators being responsible for chattels and fixtures they own.	The RVA view in its submission is there is insufficient evidence of a problem with the current scheme and costs of a new scheme would be disproportionate. The RVR and Residents' Council support establishing a new scheme to avoid conflicts of interest and meet the best practice principles for dispute resolution.	No middle ground emerged through consultation. Residents and the RVR support repayments after 28 days to achieve fairness. The Residents' Council also supports a repayment timeframe. The RVA and statutory supervisors do not support any mandatory timeframe due to increased risk of operator failure, less choice and increased costs for residents, and reduced development. They support interest payments at nine months.
Commerce Commission investigation preliminary findings	s 9(2)(h)	N/A	Capital repayment terms are expressly permitted in the Code of Practice (secondary legislation) so cannot be declared to be unfair contract terms under the Fair Trading Act. The Commerce Commission noted this cannot be taken to mean that it considers the terms to be fair.
Next steps	No significant further policy work required on the proposal.	Changing the current scheme would require developing proposals and testing them with key stakeholder groups. Establishing a new scheme would require further policy work, including on the high level design of the scheme and the functions, duties and powers of the provider. HUD would need to develop rules for the scheme to be enacted through regulation.	Policy work for a capital repayment timeframe proposal includes: <ul style="list-style-type: none"> • financial modelling to understand the impact on smaller, rural and not for profit operators (which can have longer relicensing times on average) • a process for exemptions or extensions • exploring the option of early repayments in certain circumstances. <p>Proposals will need further testing with key stakeholder groups.</p>