

**Government Response to
Report of the Social Services and Community Committee
on
Petition of Sue Brown: Retirement villages must have capacity
when residents move to next level of care**

Presented to the House of Representatives

In accordance with Standing Order 252

Government response to Report of the Social Services and Community Committee on Petition of Sue Brown: Retirement villages must have capacity when residents move to next level of care

Introduction

- 1 The Government has carefully considered the Social Services and Community Committee's report on *Petition of Sue Brown: Retirement villages must have capacity when residents move to next level of care*. The petition was presented to the House on 3 July 2020 requesting that the House of Representatives pass legislation so that it is a legal requirement for retirement village operators to ensure that they have the capacity to accommodate residents when they move from one level of care to the next (that is, serviced apartment to rest-home to hospital level of care).
- 2 The Government responds to the report in accordance with Standing Order 252.
- 3 The Government acknowledges the Social Services and Community Committee's recommendation that the legislative framework governing the wider retirement village sector be reviewed. A review of the Retirement Villages Act 2003, which forms part of this framework, is planned for early 2023.
- 4 That review will consider the Committee's suggestions regarding publishing statistics about care levels within a village and information about occupational right agreements.

Background

- 5 On 4 May 2020 this petition was submitted by Sue Brown, whose mother lived in a serviced apartment in a retirement village prior to needing greater level of care. In late 2016, the petitioner's mother's health began to decline. On 1 December 2016, the petitioner's mother had a health assessment booked with a geriatrician who recommended the petitioner's mother continue staying in her serviced apartment.
- 6 On 15 December 2016, the petitioner took her mother to the hospital to have her eating problem investigated. Following this, the retirement village would not accept the petitioner's mother back into her serviced apartment until another support needs assessment was completed.
- 7 The petitioner's mother stayed in hospital for several days, as the retirement village completed the support needs assessment. Prior to the assessment the retirement village did not confirm whether they had capacity to provide a higher level of care, should it be required.
- 8 The support needs assessment recommended the petitioner's mother needed temporary additional care, similar to rest-home level of care. This level of care could not be provided in the serviced apartment. Consequently, the retirement village informed the petitioner they did not have capacity to provide for the petitioner's mother, and that she would need to seek another facility. The

petitioner advised her mother, who was still in hospital, that she had been evicted from her apartment on Christmas Eve. The timing made it difficult for the family to find another available room that could cater for rest-home level of care.

- 9 On 26 December, the retirement village informed the petitioner that a hospital room at the village had become available. While her mother did take up this place, the petitioner believes that being evicted after living in a serviced apartment for six years precipitated a decline in her mother's health.
- 10 The petitioner's mothers' experience with transfers between levels of care in a retirement village is what led to this request being heard before the Social Services and Community Committee.
- 11 The Social Services and Community Committee undertook an investigation of the Petition and produced a report on its findings. Several Government agencies including Manatū Hauora (the Ministry of Health) and Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development (HUD) were consulted in this process.

Recommendations from the Social Service and Community Committee Report

- 12 The Social Services and Community Committee considered the Petition of Sue Brown — that retirement villages must have capacity when residents move to next level of care.
- 13 **Recommendation:** that the Government conduct a full review of the legislation governing the retirement sector in due course.

Response to the Social Service and Community Committee Report

- 14 The Government acknowledges the recommendation to review the legislation governing the retirement sector.
- 15 There are two key legislative regimes governing the retirement sector, encompassing retirement villages and aged residential care facilities respectively.
 - 15.1 The Retirement Villages Act 2003 (RVA) and associated regulations govern the operation of retirement villages, but not the provision of aged residential care (which is a health service). The RVA deals with, for example, what needs to be disclosed in the contracts that residents sign in order to 'buy in' to a village. The RVA is administered by the Ministry.
 - 15.2 The provision of aged residential care is governed by the Health and Disability Services (Safety) Act 2001. The regulations include a code of practice and a code of residents' rights. Manatū Hauora is responsible for certifying aged residential care facilities (including those facilities located within a wider retirement village) and auditing them for compliance with the Ngā Paerewa Health and Disability Services Standard.

- 16 The RVA was introduced almost twenty years ago and has not been reviewed in that time. It is the Ministry's view that there are some issues with the current regime, and that there is potential to improve the Act's protections for residents. This review will be scoped later in 2022 and could potentially include looking at issues around the continuum of care and how these arrangements impact on residents.
- 17 Initiatives aimed at providing greater certainty to prospective residents about the levels of care will be assessed for their effectiveness and practicality.
- 18 With the redesign of the health and disability system it is timely for Manatū Hauora to consider, in its enhanced role as kaitiaki, how to embed best practice regulatory stewardship.
- 19 Manatū Hauora has commenced a programme of work to ensure regulatory stewardship is built into all the new agencies with Manatū Hauora, Te Whatu Ora and Te Aka Whai Ora sharing responsibility for the various regulatory systems. The Health and Disability Services (Safety) Act 2001 will be included in that programme of work

Conclusion

- 20 The Government is aware of interest in reviewing the legislation governing the retirement village sector. Work to review the RVA, which forms the legislative framework for the sector, is scheduled to begin in early 2023.
- 21 Manatū Hauora will work with the Ministry of Housing and Urban Development on the review of the RVA with respect to issues regarding continuity of care.
- 22 The Government would like to thank the petitioner and the Social Services and Community Committee for highlighting this important issue.