



# Regulatory Impact Statement: Retirement Villages Act 2003 review – Dispute resolution scheme proposals

<b>Decision sought</b>	This regulatory impact statement and the accompanying cost recovery impact statement have been prepared to inform Cabinet decisions on establishing a new retirement village complaint and dispute resolution scheme.
<b>Agency responsible</b>	Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development
<b>Proposing Minister</b>	Hon Tama Potaka, Associate Minister of Housing
<b>Date finalised</b>	10/11/2025

The Minister is proposing to establish a new complaint and dispute resolution scheme for the retirement village sector that it is accessible and user-friendly, independent and fair, efficient, effective and accountable.

## Summary: Problem definition and options

### What is the policy problem?

There is a two-tier process in the Retirement Villages Act 2003 (the Act) and the Code of Practice 2008 for complaints and disputes that occur in retirement villages between a resident and the operator, or between residents.

Retirement village operators must have a facility for dealing with resident complaints. The operator works directly with the resident to resolve a complaint. The process can involve the village's statutory supervisor for a recommended way forward, and external mediation. A party to a complaint can issue a dispute notice. The operator must then appoint a disputes panel to conduct a hearing and make a binding decision.

The code of residents' rights in the Act gives residents the right to:

- complain to the operator and to receive a response within a reasonable time
- a speedy and efficient process for resolving disputes with the operator and other residents.

Residents and their family members, representative organisations, and consumer groups have raised concerns for many years that the Act does not provide adequate protections for residents, especially given the potential vulnerability of some older people.

Concerns about the current process for dealing with retirement village complaints and disputes include:

- the process is intimidating for residents and does not address the power imbalance between residents and operators
- there is no independent body to resolve complaints, creating conflicts of interest
- residents can contact a range of agencies about a dispute creating complexity and slowing the process
- the dispute process is infrequently used because it is lengthy, expensive, legalistic and adversarial.

Key stakeholders representing residents and operators (the Retirement Villages Residents' Association (RVR), Retirement Villages Association (RVA) and Residents' Council) have reached agreement that an improved, principles-based complaints and disputes resolution scheme would benefit residents and operators. The RVA no longer considers that changes to the current scheme would be sufficient.

Requirements for the current scheme are in the Retirement Villages Act 2003, Disputes panel Regulations 2006 and the code of practice.

### **What are the policy objectives?**

The process for resolving complaints and disputes has been considered as part of the broader review of retirement village legislation. The review considered whether the legislative framework remained fit for purpose to ensure:

- adequate consumer protections to residents and intending residents of retirement villages
- an effective balance between the rights and responsibilities of residents and operators of retirement villages
- the ongoing viability of the retirement village sector and its ability to provide a range of retirement housing options and consumer choice
- the rights and responsibilities of residents and operators are appropriately defined, including where they may differ for different occupancy rights.

The Ministry considers that a new scheme that aligns with the best practice principles for dispute resolution will achieve the policy objectives of the overall review. To align with best practice principles, the scheme needs to be:

- accessible and user-friendly
- independent and fair
- efficient
- effective
- accountable.

### **What policy options have been considered, including any alternatives to regulation?**

The Ministry considered three options for complaints and disputes:

- Option one – retain the current scheme (status quo)
- Option two – retain the current scheme with changes
- Option three – establish a new dispute resolution scheme replacing parts of the current complaint process and the entire disputes panel process.

The Minister's preferred option is option three.

There are no non-regulatory options that would address the challenges with the current scheme.

Non-regulatory initiatives, such as resident helplines, to address different issues have tended to add complexity without providing alternatives to the process for resolving a complaint or dispute. Regulatory change is required to address the challenges with the current complaints and disputes resolution scheme.

#### **What consultation has been undertaken?**

The Ministry released a discussion document on options for changes to the Retirement Villages Act in early August 2023 that received over 11,000 public submissions. The Ministry also engaged regularly with key stakeholders, including the RVR, the RVA and the Corporate Trustees Association (CTA).

The discussion paper proposed to establish a new dispute resolution scheme that would be:

- user-focussed and accessible
- independent and fair
- efficient
- effective
- accountable.

There was a very high level of support in submissions from residents to establish a new complaints and disputes resolution scheme that would be simple, efficient and user friendly for residents. Some submitters, including the RVA, considered the current scheme should be retained with some changes.

At a stakeholder round table meeting hosted by the Retirement Commissioner in January 2025, this matter was discussed and some common ground was reached. The RVR, RVA and Residents' Council agreed that an improved, principles-based complaints and disputes resolution scheme would benefit both residents and operators.

#### **Is the preferred option in the Cabinet paper the same as preferred option in the RIS?**

Yes.

## **Summary: Minister's preferred option in the Cabinet paper**

### **Costs**

The scheme would be free for residents with all establishment and operating costs met by operators. There could be an exception where a dispute is between residents, in which case the costs could be shared between the parties to the dispute and the operator.

The details of how costs are determined by the new scheme provider and paid by operators would be set out in the rules of the new scheme (the rules are not a legislative instrument but would be approved by the Minister responsible for the Act). In comparable dispute resolution schemes in other sectors, including the financial services and utilities sectors, costs are recovered through sector levies and/or fees.

The Ministry estimates marginal additional costs to the sector in the first year of operation would be between **s 9(2)(j)** per year, using assumptions based on

the current volume and type of complaints. This includes one-off establishment costs and operating costs.

We consider that marginal additional costs in the range of s 9(2)(j) per retirement village unit per year is proportionate and cost effective. The impact of additional costs being passed on to residents (for example, through weekly fees) is low.

A Stage One Cost Recovery Impact Statement has been prepared to set out the rationale for the cost recovery approach.

## Benefits

The benefits of the new scheme are non-monetised.

The new scheme would be resident-centric; it would be easy to access, and the scheme provider would support parties throughout the resolution process. Emphasis would be placed on maintaining relationships and early resolution through negotiated resolutions (either through face-to-face discussion, or shuttle negotiation where the scheme provider works with parties separately).

The new scheme would assist parties with framing and communicating issues and positions clearly and concisely, avoiding misunderstandings. A problem with the current scheme is that complaints and disputes often escalate to disputes panels before they are clearly framed and articulated by the parties.

Given the wide range of possible complaints which could be made in a retirement village setting, the new scheme provider would have flexibility to use appropriate methods of resolution, depending on the parties and the nature of the complaint or dispute.

A user friendly and effective scheme would have reputational benefits for the sector, giving intending residents more confidence to move into a retirement village. Though operators would still provide a complaint facility for residents, the new scheme would free up operators' time currently spent on complicated or time-consuming complaints. It would also free up statutory supervisors' time.

## Balance of benefits and costs

The Ministry has not completed a cost benefit analysis, given the challenges of monetising the benefits of a dispute resolution scheme.<sup>1</sup> However, we consider that a new scheme will be a cost effective and proportionate response to the challenges with the current scheme and the costs will be outweighed by benefits to residents and operators.

## Implementation

A new scheme would be established through the Act. Requirements in the Act related to disputes panels would be amended or repealed and replaced. The Retirement Village (Disputes Panel) Regulations 2006, which provide the detail for disputes panel hearings, would be fully repealed. The requirements in the code of practice related to village complaint facilities would need to be updated to reflect a more streamlined process for issues and complaints raised with operators.

<sup>1</sup> Martin Jenkins provided a cost benefit analysis in 2023 ahead of the discussion paper being released for consultation. Martin Jenkins assessed the unquantified benefits, noting the range of benefits generated by changing the dispute resolution process could not be quantified at that stage. See [Cost-benefit-analysis-RVA-review.pdf](#).



We recommend that the Act allows for either a scheme that is approved by the Minister, or a scheme established through regulations. We intend that only one scheme should be established; the preference is an approved scheme which involves less government prescription. Legislation for other comparable schemes allows for approved schemes or, as a back-up, regulated schemes in situations where the dispute resolution sector does not put forward a suitable scheme for the Minister's approval.

If regulations are not required to establish a new scheme, the Ministry would run a procurement process after the amendment Bill receives Royal assent to identify a third-party dispute resolution scheme provider. The process would take longer if regulations are required. The code of practice clauses relating to village complaint facilities will need to be amended before the new scheme can begin operating.

Applications would be evaluated based upon experience and expertise, the capacity to deliver the scheme and scale up or down as required, the ability to deliver a scheme that aligns with best practice principles of dispute resolution, and cost-effectiveness. The renewal period for a contract of this nature would be three terms of three years or similar.

The scheme provider would be responsible for developing the detailed rules of the scheme covering all matters required by the Act. The rules, and any subsequent changes, would need to be approved by the Minister.

Independent reviews, reporting and ongoing contract management of the new scheme provider will ensure the scheme is aligned with its intended purpose, provides value and achieves the expectations of the sector and the government.

We anticipate the earliest a new scheme could be operating is 12 to 18 months after the amendment Bill receives Royal assent. The scheme would commence through an Order in Council. The current process for resolving complaints and disputes would continue to operate until a new scheme is ready to begin operating. Any disputes panel hearings that have commenced would be completed under the current process.

### **Limitations and Constraints on Analysis**

The cost estimates of new scheme are based on assumptions, including that an existing dispute resolution scheme provider is appointed to operate the new scheme (maximising cost efficiencies related to establishment costs). We have also used assumptions on the number and complexity of complaints referred to the new scheme.

The estimated costs are broadly aligned with the costs of consumer dispute resolution schemes in other sectors, although direct comparisons are not possible because of the varying nature and complexity of complaints and the different processes for resolving them.

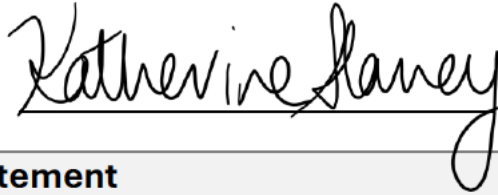
The benefits of a new scheme, which include reputational benefits for the sector, and a scheme that is more accessible and user-friendly for residents, cannot be monetised.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Signed by the responsible

Manager:

Katherine Slaney  
Acting Policy Manager,  
Housing and Rental Markets



Date: 10/11/2025

Quality Assurance Statement	
Reviewing Agency: Ministry of Housing and Urban Development	QA rating: Meets
<p><b>Panel Comment:</b></p> <p>This is a very good RIS in support of the proposal to establish a new complaints and dispute resolution scheme. It is clear, concise and based on good qualitative information (including consultation information from different stakeholders/actors in the system) and quantitative information on costs. The options analysis is logical and robust, guided by application against clear criteria.</p>	

## Section 1: Diagnosing the policy problem

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### **What is the context behind the policy problem and how is the status quo expected to develop?**

1. There are currently 470 retirement villages in New Zealand with an estimated 53,000 residents. The sector is growing, with over 130 new residents moving into retirement villages each week. Approximately 14 percent of New Zealanders over the age of 75 live in a retirement village.
2. Retirement villages are governed by the Retirement Villages Act 2003 (the Act), the code of practice and regulations. Two key purposes of the Act are to protect the interests of residents and intending residents and enable retirement villages to develop under a simple legal framework that is easy to understand.
3. The legislation is being reviewed to ensure it remains fit for purpose, provides adequate consumer protections and achieves an effective balance between the rights and responsibilities of residents and operators of retirement villages. The current complaints and disputes resolution process is one of residents' priority areas under review.

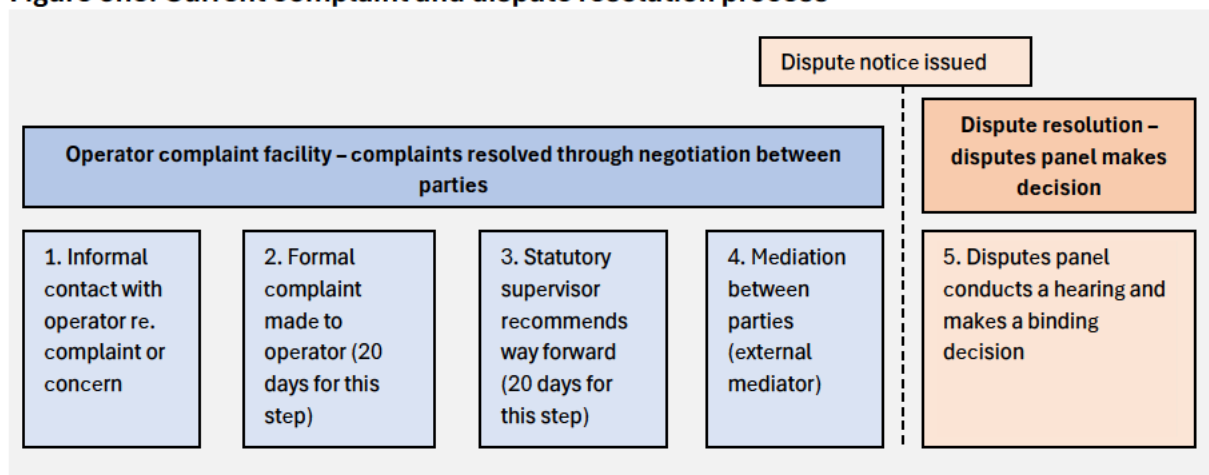
### ***Residents' rights to complain and to have a process for resolving disputes***

4. The code of residents' rights (Schedule 4 of the Act) provides residents with rights that are in addition to the rights set out in an occupation right agreement (ORA). The code of residents' rights gives retirement village residents the right to:
  - complain to the operator and to receive a response within a reasonable time
  - a speedy and efficient process for resolving disputes with the operator and other residents
  - use a support person or a person to represent you in dealings with the operator.
5. Complaints and disputes can relate to contractual and legal matters such as charges, maintenance and access to services and facilities, or to interpersonal matters such as resident, management or staff behaviour. Complaints and disputes can be between a current or previous resident and the operator, or between residents.
6. The Act requires operators to have a complaints facility that aligns with requirements in the code of practice, and to provide a process for disputes that cannot be resolved through negotiation between parties.
7. The Retirement Villages (Disputes Panel) Regulations 2006 has requirements related to the commencement and conduct of disputes panel hearings, such as the appointment of disputes panels, matters preliminary to a hearing, evidence and witnesses and records of disputes.

### ***Key features of the current process for complaints and disputes***

8. At a high level, there are five steps in the current complaint and dispute process, although not all steps will be followed depending on the circumstances.

**Figure one: Current complaint and dispute resolution process**



*Operators must provide a complaints facility*

9. Complaints dealt with through an operator's complaints facility are resolved by the agreement of the parties with assistance from the statutory supervisor or a mediator, if required. The complaints facility does not provide a final determination of the issue in dispute.
10. Operators must have a complaints facility that meets minimum policy and procedure requirements set out in the code of practice. Where an informal complaint or concern is not resolved, or the resident chooses to skip that step, a resident can make a formal complaint. The operator will first work directly with the resident to resolve the complaint (figure one, steps 1 and 2).
11. Where a formal complaint cannot be resolved within 20 working days, the operator must refer it to the statutory supervisor, who can recommend a way forward (figure one, step 3). If the complaint is still unresolved after a further 20 working days, the operator must offer mediation and pay for the mediator's costs (with residents contributing to the costs if the complaint is between residents) (figure one, step 4). The mediation step was introduced in 2017 through an amendment to the code of practice.

*A disputes panel can make a binding decision to resolve disputes*

12. The right to commence the dispute resolution process is a statutory right given to residents and operators. The outcome of the dispute resolution process is a final determination or decision from the disputes panel on the merits of the dispute.
13. Parties to a complaint can initiate the dispute resolution process under the Act and the Retirement Villages (Disputes Panel) Regulations 2006 by issuing a dispute notice at any point after the first 20 days of making a formal complaint and within six months (thereby skipping either or both of steps 3 and 4).
14. When a dispute notice is issued, the operator must appoint and meet the costs of the panel. The panel can consist of one or more people. The Retirement Commission approves the list of people that may be appointed to a panel, and publishes disputes panel decisions. The operator must consult with the other parties to the dispute before making an appointment. Panel members must be independent with no conflicts of interest.



15. A disputes panel may hear disputes about a resident's ORA, alleged breaches of the code of residents' rights or alleged breaches of the code of practice (step 5). The disputes panel may conduct the dispute resolution process in any manner it thinks fit. However, the disputes panel must comply with the requirements of the Act and regulations. The procedure of the disputes panel aligns with that of a court proceeding, and parties can be legally represented. A panel may conduct a hearing, consider evidence, make an order and can award costs to either party.
16. A disputes panel can:
  - require an ORA to be amended to comply with the code of practice
  - order a party to comply with its obligations under an ORA or the code of practice, or to give effect to a right under the code of residents' rights
  - order a payment or refund of an amount in dispute in a dispute involving an operator
  - order the return of property or compensation not exceeding \$1,000 in a dispute between residents
  - in a dispute relating to relicensing of a unit, make a range of orders relating to marketing the unit or making payments to the former resident.
17. Orders made by a disputes panel are enforceable as though they were orders of the district or high court. Appeals may be made through the courts.

*Disputes involving an alleged breach of code of residents' rights*

18. If a resident alleges a breach of any right set out in the code of residents' rights, the resident may contact the operator, the village's statutory supervisor, the Registrar, the Retirement Commissioner, the disputes panel or any other person. Apart from the disputes panel, the Act does not give any other person any specific powers to resolve a dispute involving an alleged breach of the code of residents' rights.

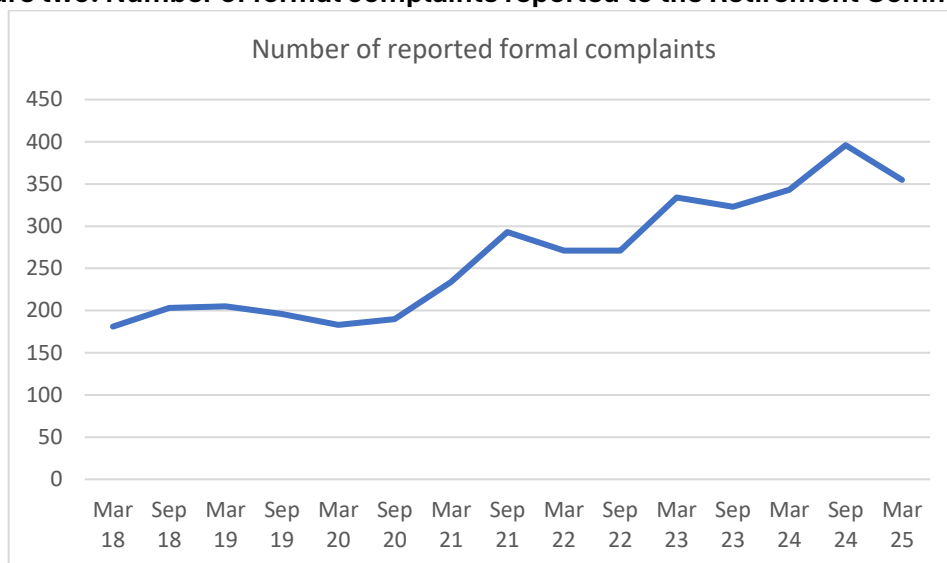
*Disputes relating to relicensing a unit*

19. The Act has specific requirements relating to disputes about the relicensing of a unit. A former resident or their estate cannot issue a dispute notice until nine months after the unit was vacated. The operator must appoint at least three members to the panel, with specific requirements for the panel chair.

***The number of complaints is growing but disputes panels are used infrequently***

20. The Retirement Commission collects information from operators every six months on the number of formal complaints, what they are about, resolution rates, and the involvement of other parties such as a statutory supervisor or mediator. A summary report is published on the Retirement Commission's website.
21. In the six months to March 2025, 463 villages entered data with 295 (64 percent) villages reporting no formal complaints and 168 villages (36 percent) reporting 355 complaints.
22. The trend is for an increasing number of formal complaints. Formal complaints increased by 98 percent over five years, while the number of units increased by 25 percent.

**Figure two: Number of formal complaints reported to the Retirement Commission**



23. About two-thirds of the formal complaints made in the six months to March 2025 were resolved at the time of reporting. Of those, sixty percent were resolved within 20 working days. The most common formal complaints related to:
  - maintenance/repairs of grounds and buildings (19 percent)
  - complaints about resident behaviour made by other residents (16 percent)
  - service quality (10 percent)
  - health and safety (8 percent)
  - management and/or staff (8 percent).
24. Complaints about a range of other matters made up the remaining 39 percent of formal complaints.
25. Statutory supervisors had some involvement in 14 percent of formal complaints, and a mediator or independent third party in 4 percent of formal complaints.
26. The number of disputes panel decisions each year is low, ranging from zero to four a year, and no trends have emerged. There have been 36 disputes panel decisions since 2007 covering a wide range of issues. The most common disputes have been about relicensing matters, changes to or the quality of facilities and services, and repairs and maintenance of the village or resident units.
27. Anecdotally, we have heard that a larger number of dispute notices are issued than progress to a hearing. This suggests issuing a dispute notice can trigger a negotiated resolution between parties to avoid the cost and time required for a disputes panel hearing.
28. Under the status quo, we expect the number of formal complaints to continue to rise and the number of disputes panel decisions to remain very low.

## **What is the policy problem or opportunity?**

29. The significant upheaval and financial consequences of moving out of a retirement village limits the options available to residents with a complaint or dispute. If residents are unhappy with how complaints are addressed or cannot resolve disputes and enforce their rights, moving elsewhere is unlikely to be a feasible option.
30. A dispute resolution scheme has a vital role in ensuring residents have adequate consumer protections. However, concerns raised with the current scheme show it is not fit for purpose.

### ***There is no impartial provider to support parties to resolve complaints***

31. Operators are responsible for receiving, investigating and resolving complaints they are typically a party to. Statutory supervisors currently play a key role in offering an independent view on the way forward. Statutory supervisors are appointed and paid by operators on an ongoing basis, which impacts resident perceptions of their independence and their suitability to recommend a way forward.
32. We have heard of disputes where the issues are not clarified and communicated until the latter stages when a disputes panel has been engaged, missing an opportunity for early resolution, and therefore prolonging the impact and cost associated with the issue.

### ***The process is complex to navigate and residents lack support***

33. A number of agencies offer information and advice on the current process but there is no dedicated support for parties navigating the process. While residents can refer an alleged breach of the code of residents' rights, a residents' committee, the Retirement Commissioner, the village's statutory supervisor or the Registrar, ultimately the only option to resolve a complaint is through negotiation with the other party or through a disputes panel process.

### ***The power imbalance between residents and operators is not effectively addressed***

34. Retirement Commission investigations and reports suggest the current number of complaints may not accurately reflect resident satisfaction levels with their retirement village. Some residents may be reluctant to make or progress a complaint because they find the process intimidating, do not think they will be listened to or feel it might negatively impact their ongoing relationship with village management or staff.
35. The power imbalance between operators and residents in terms of information and resources is not effectively addressed through the current scheme. Operators are more likely than residents to access legal advice in the early stages of the process and engage legal representation for dispute hearings. Where expense is a barrier to accessing legal support, residents may choose not to progress a complaint because of the uneven playing field.

### ***Disputes panel hearings are adversarial and are not used frequently***

36. Most operators have never used the disputes panel process (only 36 disputes panel decisions have made since 2007). While it is appropriate for a disputes panel to be engaged only after other options for resolving the dispute have been exhausted, the low number of decisions suggests the process is not fit for purpose.

37. Operators typically engage legal representation which can make disputes panel hearings expensive, legalistic and intimidating for residents. Disputes panel members have reported that hearings are not appropriate for most residents, and the adversarial nature does not align with the need to maintain relationships between parties to a dispute.
38. Disputes panel costs generally cost around \$10,000 to \$20,000 per hearing.

***Operators and statutory supervisors report finding some complaints challenging***

39. Issues with the current process have also been raised by operators and statutory supervisors. Issues include their suitability to resolve or provide recommendations on complex interpersonal complaints between residents which can require specialist skills and expertise. Unreasonable complaints can also place stress on operators.

**What objectives are sought in relation to the policy problem?**

40. The overarching objectives of the Retirement Villages Act review are to ensure:
- adequate consumer protections for residents and intending residents
  - an effective balance between the rights and responsibilities of residents and operators
  - the on-going viability of the retirement village sector and its ability to provide a range of retirement housing options and consumer choice
  - the rights and responsibilities of residents and operators are appropriately defined, including where they may differ for different occupancy rights.
41. Best practice principles were developed by the Government Centre for Dispute Resolution<sup>2</sup> to guide the design, operation and review of dispute resolution schemes. To align with the best practice principles, a dispute resolution scheme needs to be:
- User focussed and accessible: users are at the centre; dispute resolution is easy for potential users to find, enter and use regardless of their capabilities and resources
  - Independent and fair: all dispute resolution functions are, and are seen to be, carried out in an objective and unbiased way
  - Efficient: dispute resolution provides value for money through appropriate, proportionate and timely responses to issues
  - Effective: dispute resolution delivers sustainable results and meets intended objectives
  - Accountable: regular monitoring and assessment and public reporting encourages ongoing improvement and better outcomes across the system.
42. We consider a scheme that aligns with best practice principles would meet the objectives of the review.

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<sup>2</sup> The Government Centre for Dispute Resolution, within the Ministry of Business, Innovation and Employment was established to build capability across government to design and deliver appropriate and accessible dispute resolution. It was disestablished in 2024.

## What consultation has been undertaken?

### *Public consultation*

43. The Ministry released a discussion document on options for changes to the Retirement Villages Act in early August 2023 and held four in-person workshops in Wellington, Christchurch and Auckland. The consultation period ran until late November 2023, and over this timeframe the Ministry received over 11,000 public submissions from a range of people and groups including, residents and their families, retirement village operators, lawyers, advocacy groups, and sector associations.
44. The Ministry asked for stakeholder and public feedback on a proposal to replace the current scheme with a new sector-specific complaint and dispute resolution scheme provided by a third party. Of the submitters who responded to this topic, 82.3 percent supported the proposal to establish a new dispute resolution scheme, 16.3 percent did not support the proposal and 1.4 percent were unsure. We received over 300 written comments in submissions.

### *Feedback from residents, intending residents, family members, and representative organisations*

45. Most residents who provided written comments supported a new scheme that would be independent of operators. The key themes were:
- A disputes scheme should be independent, impartial and unbiased
  - Operators should have the first opportunity to resolve an issue/complaint, with an independent scheme for complaints that cannot be resolved by the operator
  - A new independent scheme would help to address the imbalance between operators and residents.
46. There was significant support for incentivising the early resolution of complaints and for operators to retain the first opportunity to resolve any issues or complaints if a new scheme was to be established.
47. However, where an issue is not easily and quickly resolved, residents commented on the challenges of operators investigating complaints about themselves. Independence from operators and residents is necessary for a dispute service to have integrity and be impartial.
48. Some residents commented that the current complaints and disputes process did not address the power imbalance between operators and residents, so making and escalating a complaint through the process if early resolution was not achieved could be stressful and intimidating.
49. The RVR supported an independent scheme with a sufficiently powered decision maker, alongside advocacy support for residents.
50. The Residents' Council submitted it was important to establish a new dispute resolution scheme independent of retirement village operators. Operators have a conflict of interest in operating a scheme, for example, they may choose to deal with conflicts in a very slow way that disadvantages the complainant. The Residents' Council was particularly concerned about the complexity and lack of timeliness of the current



dispute resolution process. A dispute resolution scheme, working alongside the regulator, would be an appropriate means of providing a simple and cost-efficient dispute process.

#### *Feedback from operators and the RVA*

51. Most operators who provided comments considered the current scheme was effective. Key themes were:
- operators are incentivised to resolve issues at an early stage (because protracted complaints can be costly and time consuming, and to protect the operator's reputation).
  - the cost of a new scheme would not be justified
  - most residents are satisfied with retirement village living
  - there is not enough evidence a new scheme is needed.
52. The RVA's position at the time (2023) was the current scheme was effective and should be retained in whole or in part. Note, the RVA has subsequently revised its position (See Further Stakeholder Engagement below).

#### *Feedback from other submitters*

53. The New Zealand Law Society noted the current scheme ignored the need for independence and observed from experience and anecdotal feedback that the real issue(s) in dispute may not be readily identified by a resident or support person.
54. Age Concern, Grey Power, the Retirement Commission and Consumer NZ were among the organisations that supported a new scheme. Comments included:
- the current scheme is confusing, infrequently used, and not trusted by residents
  - schemes that are not independent of operators are generally considered to be weighted in favour of operators
  - many residents will feel more comfortable approaching an independent disputes provider than continuing to deal with their operator
  - residents lack confidence in the current scheme.
55. The CTA (representing statutory supervisors) supported making changes to the current scheme, including changes relating to the appointment of disputes panel members, and the treatment of frivolous and vexatious complaints.

#### ***Further stakeholder engagement***

56. The Retirement Commissioner convened a round table meeting with key sector stakeholders in January 2025 to discuss priority areas under review where stakeholders held different views.
57. The Retirement Commissioner reported that the RVR, Residents' Council and the RVA reached an agreement at the meeting, and an improved principles-based complaints and disputes scheme would benefit both residents and operators. Stakeholders agreed the goals should be to incentivise early agreement, ensure the scheme is simple,

streamlined, and cost effective, treat all users fairly, and provide a public account of the scheme's operation.

58. In 2025, the New Zealand Dispute Resolution Centre (NZDRC) was commissioned by the Retirement Commission to develop a recommended framework for a new dispute resolution scheme with input from key stakeholders. The NZDRC engaged with the RVR, RVA, Residents' Council and CTA to understand their views and concerns with the current process, and how they considered a new scheme should operate. The NZDRC tested their recommended framework as it was being developed and incorporated feedback from stakeholders into its final report.

## Section 2: Assessing options to address the policy problem

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### What criteria will be used to compare options to the status quo?

59. The Ministry has assessed the options against the best practice principles for dispute resolution developed by the Government Centre for Dispute Resolution. The principles are intended to guide the design, operation and review of dispute resolution schemes across government and regulated sectors to ensure schemes deliver high-quality, equitable and sustainable outcomes for users.
60. To align with the best practice principles, a scheme must be:
- **Accessible and user friendly** - Users are at the centre. Dispute resolution is easy for potential users to find, enter and use regardless of capabilities and resources.
  - **Independent and fair** - All dispute resolution functions are, and are seen to be, carried out in an objective and unbiased way.
  - **Efficient** - Dispute resolution provides value for money through appropriate, proportionate and timely responses to issues.
  - **Effective** - Dispute resolution delivers sustainable results and meets intended objectives.
  - **Accountable** - Regular monitoring and assessment and public reporting encourages ongoing improvement and better outcomes across the system.
61. All principles are given equal weight. We do not consider that certain principles need to be prioritised ahead of others, or that trade-offs are required.

### What scope will options be considered within?

62. There are no feasible non-regulatory options as the requirements for the complaint and dispute resolution process are in the Act, regulations and code of practice. Significant changes cannot be introduced without amending legislation.
63. Several stakeholder initiatives have been trialled or introduced to improve the current scheme for residents who might find it intimidating or difficult to engage with. These initiatives have included the RVA Fair Way Trial to provide guidance on how to resolve a complaint within the current scheme, and RVR initiatives to provide a complaint form, and an 0800 confidential support line.
64. Initiatives have increased the number of people a resident can contact about a complaint but ultimately direct the resident back to the current scheme to have the complaint resolved.

### What options are being considered?

65. We considered the following options:
- Option One – Retain the status quo
  - Option Two – Changes to the current complaint and dispute resolution process
  - Option Three – Establish a new complaints and disputes resolution scheme.

66. We have described the options considered, analysed the options against the criteria, and outlined in more detail the expected costs, risks and benefits of the preferred option.
67. Options have been analysed using the following key:

**Key for qualitative judgements:**

++	much better than doing nothing/the status quo/counterfactual
+	better than doing nothing/the status quo/counterfactual
0	about the same as doing nothing/the status quo/counterfactual
-	worse than doing nothing/the status quo/counterfactual
--	much worse than doing nothing/the status quo/counterfactual

68. We have used our best judgement in terms of qualitatively assessing the overall impact of each option relative to the status quo instead of providing a direct cumulative score. For example, one option might have a plus in two rows but overall the change is considered to be a relatively minor improvement, so has been accorded a single plus.

#### **Option One – Retain the status quo**

69. Operators would continue to be responsible for receiving and resolving complaints through negotiation between the parties, involving the village's statutory supervisor and offering mediation for unresolved complaints. Where a dispute notice is issued, the operator must appoint a disputes panel to hold a hearing and make a binding decision. The status quo option is described in detail in **Section 1**.

#### **Option Two – Changes to the current complaint and dispute resolution process**

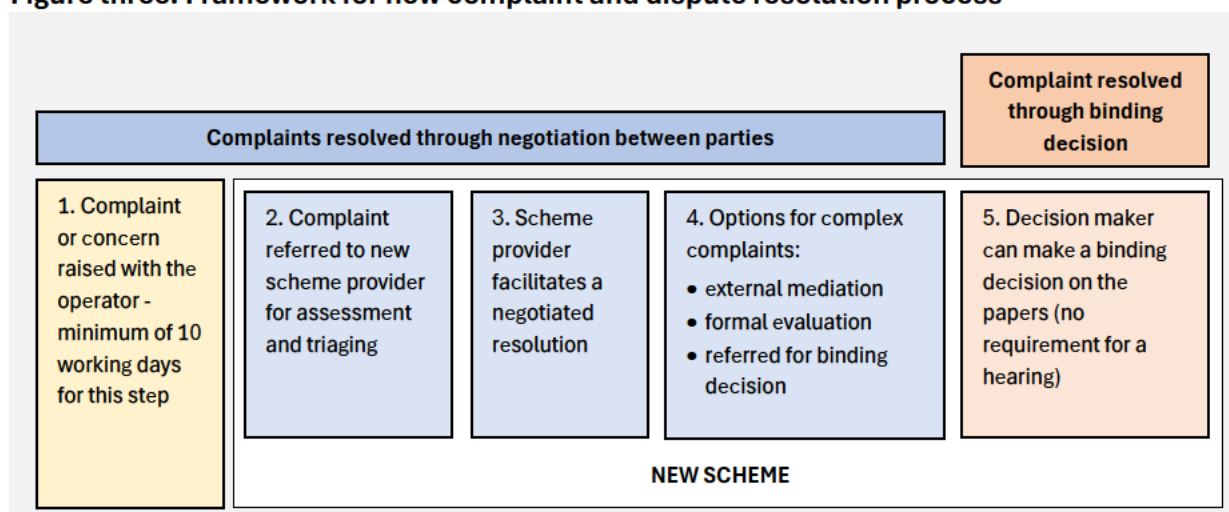
70. The status quo process would largely be retained, with some or all of the following changes:
- Criteria for frivolous or vexatious complaints could be added to the legislation so complaints without merit would not progress, to improve the efficiency of the current process.
  - Pathways could be streamlined for some complaints (for example, interpersonal complaints would no longer be referred to statutory supervisors) to improve efficiency.
  - Disputes panel members could be appointed by a third party (for example, the Retirement Commissioner) rather than by operators to address perceptions about the independence of disputes panels.
  - The use of legal representation in hearings could be limited to help to address the power imbalance between operators and residents and make hearings less legalistic and adversarial.
  - Disputes panels could have additional options available to them to resolve disputes without the need for a hearing.

- Additional monitoring could be introduced, for example:
  - Mediation – how often its used, the types of complaints that are mediated and the outcomes of mediation.
  - Dispute notices – the number issued, the types of complaints dispute notices are issued for and the reasons they are withdrawn.
- Free, independent advocacy support for residents could be made available to address the power imbalance and make the process less intimidating. An advocate would support residents making a complaint and to advocate for them in negotiations.

### Option Three – Establish a new complaint and dispute resolution scheme

71. This section sets out the framework for a new scheme that would replace the current village complaint process and all of the disputes panel process. We have drawn on a recommended framework developed in 2025 by the New Zealand Dispute Resolution Centre (NZDRC) for the Retirement Commission.<sup>3</sup> Feedback from the RVR, RVA, Residents' Council and CTA was incorporated into the NZDRC framework.
72. The legislation would set the high level parameters of a new scheme, which would include, 'the purpose is to provide a scheme that is accessible and user-friendly, fair and independent, efficient, effective and accountable'. The detailed design of the scheme would be developed by the scheme provider and set out in the rules of the scheme approved by the Minister.
73. Option three involves:
- retaining operator complaint facility processes with some changes
  - appointing a third-party dispute resolution scheme provider to operate a new sector-specific scheme for complaints that cannot be resolved through the operator complaint facility.

**Figure three: Framework for new complaint and dispute resolution process**



<sup>3</sup> 2024-25 Retirement Villages Complaints and Disputes Resolution Scheme: Report and Scheme Recommendation, [Monitoring reports | Retirement Commission Te Ara Ahunga Ora](#)



*Operators would continue to operate a complaint facility at the village*

74. Operators would continue to provide a complaint facility that enables them to comply with the code of residents' rights (residents have the right to complain to the operator and to receive a response within a reasonable time). Where an informal complaint or concern is not resolved, or the resident chooses to skip that step, a resident can make a formal complaint. Residents would be expected to raise a formal complaint with the operator in the first instance (figure three, step 1).
75. The operator would work with the parties to the complaint to reach a resolution. The operator would no longer be required to refer the complaint to the statutory supervisor or offer and arrange mediation. The operator might choose to get advice from the statutory supervisor where a complaint is relevant to the statutory supervisor's role and responsibilities. If the formal complaint cannot be resolved, at any time after a minimum of ten working days have passed, the complaint can be referred to the new scheme.
76. While the expectation is that residents contact the operator with a concern or complaint as a first step, exceptions would be allowed. In situations where this would not be appropriate, for example where the complaint is about alleged bullying behaviour by management or staff, the resident could contact the new scheme provider for assistance with raising the complaint with the operator.

*A third-party provider would operate a complaint and dispute resolution scheme*

77. Resident complaints could be referred to the new scheme by the resident, a family member of a former resident, a representative, or the operator (figure three, step 2). The scheme provider would decide whether to accept the complaint, or whether it should be referred to another more appropriate scheme (for example, the Health and Disability Commission or Privacy Commission schemes). The scheme provider should be able to decline complaints that are frivolous or vexatious.
78. There would be no monetary cap on complaints to the scheme. This is because we want to the scheme to be able to resolve complaints and disputes related to relicensing retirement village units and have the powers available to disputes panels. This includes the ability to order that an operator pay a resident a fixed sum as if the operator had disposed of the unit.<sup>4</sup>
79. Where a complaint is accepted, the scheme provider would clarify, summarise and document what the complaint is about, what resolution or outcome the resident is seeking, and share this information with parties to the complaint.
80. The scheme provider would attempt to resolve the complaint at the earliest possible stage through conciliation and facilitation (figure three, step 3). Based on other comparable schemes, "shuttle negotiation" where the scheme provider has separate discussions with each party to reach a resolution, is a common approach, and most complaints (typically between 80 percent and 90 percent) are resolved at this early stage.

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<sup>4</sup> Section 70(1)(d)(ii) of the Retirement Villages Act 2003.

81. An estimated 10 to 20 percent of complaints are expected to be more complex. Where parties have reached a deadlock in negotiations, the situation may require mediation, non-binding written evaluations or binding decisions. The new scheme would have flexibility to take the best approach for the parties involved and the nature of the dispute (figure three, step 4). For example:
  - engaging a mediator with expertise and experience is likely to be an appropriate option for complex interpersonal disputes
  - a formal written evaluation of the case and recommendations to resolve it is likely to be appropriate for a dispute about a contractual matter.
82. Where a negotiated settlement is reached at any stage in the process, the scheme provider would ensure the parties understand the agreement, then document the agreement and close the case.
83. Under the new scheme there would be no requirement to issue a dispute notice seeking a binding decision. Instead, once a complaint is accepted, the scheme provider would progress the case until it is resolved (although the party who made the complaint would be able to withdraw it at any stage).
84. Based on other schemes, we expect that a small percentage of complaints to the new scheme would need to be resolved through a binding decision made by a decision maker with the appropriate qualifications, expertise and experience (figure three, step 5). Decision makers in other comparable schemes have extensive legal qualifications and experience.
85. Decisions would generally be made on the papers with no in-person hearing. While it would still be possible in some circumstances for an in-person hearing, the decision maker would need to consider the views of the parties and whether the benefits would outweigh the potential stress for the residents involved.
86. The decision maker would be able to make the range of decisions a disputes panel can currently make. The decision maker would issue a preliminary decision for the parties to respond to before the decision is finalised and becomes binding on the parties. Parties will have the right to take one appeal of a decision on a question of law through the District or High Court, with no further right of appeal available.

*We considered if a government agency should operate a new scheme*

87. We considered whether a new scheme could be operated by a government agency and headed by a commissioner. For example, the Health and Disability Commission operates a scheme for complaints related to the Code of Health and Disability Services. The Health and Disability Commissioner can investigate complaints and systemic issues and make recommendations.
88. Given the alignment with the roles and responsibilities of the Retirement Commissioner, we considered whether this might be a suitable option but did not recommend it. We considered that an existing dispute resolution provider:
  - would have the appropriate skills, experience and expertise in dispute resolution
  - would be able to leverage existing systems and tailor processes developed for other dispute resolution activities

- would be better placed to scale up or down as required for the number and complexity of complaints received by the new scheme
- would be a proportionate and lower cost option.

*We do not consider there is a need for a free advocacy service for residents*

89. A potential advocacy service would:

- provide advice and support to residents/families
- assist in resolving disputes by clarifying issues, identifying options, and facilitating outcomes
- represent and advocate for individual residents in negotiations.

90. The RVR considers that free, independent advocacy support is a necessary feature in a new scheme to support residents in negotiations with operators and address the power imbalance. An advocacy service is available for people using the Health and Disability Commission scheme.

91. We accept that making a complaint can be stressful and intimidating, but we do not consider that a free advocacy service for residents could be justified at this stage.

92. While the scheme provider would not advocate for or negotiate on behalf of residents (it needs to be impartial and free of conflicts of interest to be credible, fair and independent), it would assist and support residents. The scheme would be designed to be accessible, user-friendly and appropriate for residents. The scheme provider would ensure the resident's position is heard and understood by the other party, use shuttle negotiation to reach a settlement, and if this is not successful, progress the case in a way that is suitable for both the type of dispute and the parties involved. Community based services (such as the Citizens Advice Bureau) are available to residents who might want additional support.

93. There are opportunities to reconsider the need for an independent advocacy service through reviews of the scheme.

## How do the options compare to the status quo?

	Option One – Status Quo	Option Two – Changes to the current complaint and dispute resolution scheme	Option Three – New complaint and dispute resolution scheme
<b>Accessible and user-friendly</b>	0	0/+ Advocacy service for residents <i>However, the service would not be available to all residents and without a third party provider, the power imbalance would remain</i>	++ One point of entry to the scheme Scheme provider provides support and guidance to residents throughout the process; assists resident to raise complaint with operator where appropriate; uses a range of resolution options as appropriate the parties and type of complaint
<b>Fair and independent</b>	0	+ Operators no longer appoint mediator and disputes panel members – Retirement Commission or another appropriate agency does this Limits or requirements relating to the use of legal representation <i>However, the process would remain adversarial and better access to legal advice would give operators and advantage</i>	++ Third party scheme provider/decision maker is independent and free from conflicts of interest Legal representation is not needed to engage with the scheme
<b>Efficient</b>	0	+ Operators retain first opportunity to resolve a complaint Streamlined pathways for some complaints (e.g. no statutory supervisor step for interpersonal complaints) Additional options available to disputes panels for quicker resolution – this could include settlement conferences, decisions based on the papers <i>However, the disputes panel process is infrequently used, so most complainants would not receive any benefit</i>	++ Operators retain first opportunity to resolve a complaint (with some exceptions) Statutory supervisor time freed up to focus on key functions and responsibilities (their areas of expertise) Less administration for operators Complaints the operator cannot resolve can progress more quickly to the new scheme Scheme provider clarifies the complaint and the solution sought as the first step

	Option One – Status Quo	Option Two – Changes to the current complaint and dispute resolution scheme	Option Three – New complaint and dispute resolution scheme
			No one size fits all process for complaints - the scheme provider has flexibility to use the most appropriate methods to resolve the complaint quickly
<b>Effective</b>	0	<p>0</p> <p>Operators/statutory supervisor would be able to decline frivolous or vexatious complaints</p> <p>Changes to disputes panel process such as pre-hearing options to make the process less intimidating and improve effectiveness</p> <p><i>However, the ability to decline complaints could increase the power imbalance</i></p> <p><i>The disputes panel process is infrequently used, so most complainants would not receive any benefit</i></p>	<p>++</p> <p>The scheme provider would have specialised staff with experience and expertise in dispute resolution</p> <p>The scheme provider would be able to decline frivolous or vexatious complaints</p> <p>Emphasis on restoring or preserving relationships between parties</p> <p>Scheme provider has flexibility to take the best approach for the parties involved and the nature of the dispute</p>
<b>Accountable</b>	0	<p>0</p> <p>Current reporting would continue with additional monitoring for example, monitoring of outcomes of mediation and dispute notices issued and withdrawn</p> <p><i>However, there would still be a gap around reviewing the effectiveness of the process and monitoring and improving performance</i></p>	<p>++</p> <p>The scheme provider would report to the sector and the public on complaints and emerging trends</p> <p>Anonymised decisions made available to the public</p> <p>New scheme would be independently reviewed</p> <p>Reviews would consider alignment with the purpose of the scheme and recommend any areas of improvement</p>
<b>Overall assessment</b>	0	<p>+</p> <p>Improvements compared to the status quo, but the changes would not fully address challenges. Scheme would not be fully independent, user friendly or deliver significant benefits for the sector.</p>	<p>++</p> <p>New scheme designed to meet the needs of the sector would fully align with the objectives of the review and deliver significant benefits for residents and operators.</p>



**What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?**

***A new scheme designed to meet the needs of the sector meets all policy objectives***

94. The Ministry considers the minimum viable change to the current complaint and disputes process is to introduce a new dispute resolution scheme replacing parts of the current complaint process and completely replacing the disputes panel process. Establishing a new complaint and dispute resolution scheme addresses the problems with the current scheme, achieves the policy objectives and delivers the highest benefits for residents and operators.
95. Key benefits for residents include having a scheme that is easy to access, provides guidance and support to navigate the process, takes an inquisitorial approach and works with the parties to reach a negotiation, minimising the stress and anxiety some residents feel if they need to engage directly with the operator. Residents might be more likely to raise a complaint rather than leave an issue unresolved because they are not willing to engage with the complaint process.
96. It would deliver benefits for operators across the sector in all village types, including:
- reputational benefits, giving intending residents more confidence to move into retirement villages
  - improved efficiency – while operators would still provide a complaint facility for residents, the new scheme would free up operator (and statutory supervisor) time otherwise spent on complicated, time consuming, and on occasion meritless complaints. Emphasis would be placed on early agreement and complaints that are clearly without merit could be declined.
97. Operators (and statutory supervisors) can find some interpersonal complaints between residents particularly challenging. Under the current scheme operators have a key role in resolving these complaints and while mediation is an option, it is costly and it takes some time to reach this step in the process. Operators will be able to refer complaints between residents to the new scheme, which will have staff with the appropriate expertise and specialist skills for dealing with interpersonal matters.
98. Government agencies would benefit from reporting on the number and types of complaints, how they are being resolved and identifying trends and emerging issues that could indicate wider, systemic issues at an early stage.
99. Key sector stakeholders agreed in January 2025 at a meeting convened by the Retirement Commissioner that an improved principles-based complaints and disputes scheme would benefit both residents and operators.
100. Government agencies, including the Retirement Commission and the Office for Seniors, support establishing a new scheme.

***Changes to the current complaint facility and disputes panel process would have a limited impact***

101. Making changes to the current process would deliver some improvements, compared to the status quo, but would not be sufficient to deliver a scheme that addresses the key challenges with the current scheme or meets all policy objectives.
102. Improvements to the complaint facility would be piecemeal and would not address the key challenges. For example, the following changes could be made to improve the efficiency and effectiveness of the current complaint scheme:
  - A free, independent advocacy service could be introduced to make the process less intimidating for some residents. However, rather than adding a feature to the current scheme, we consider that establishing a new scheme that is designed to be user-friendly and appropriate for the sector would make it more accessible.
  - The process for interpersonal complaints could be changed so statutory supervisors are not required to offer a way forward for these types of complaints and mediation could be offered at an earlier stage. This could improve efficiency and speed up the process by 20 days – but only for around 15 percent to 20 percent of formal complaints.
  - A process could be added to legislation for dealing with vexatious or frivolous complaints or complaints without merit. However, there would need to be a high bar for limiting a resident's right to make a complaint so the impact would not be significant.
103. The key challenges relating to the lack of support for residents, the stress of negotiating directly with the operator and the possibility of conflicts of interest would not be addressed. Operators would not get the reputational benefits or improved efficiencies of a new scheme.
104. Many of the changes would impact the disputes panel process, improving perceptions of independence and giving panels additional options to resolve disputes without needing a hearing. However, only a small number of disputes would be expected to reach this stage where a negotiated resolution has not been reached. Residents and operators would not benefit in the earlier stages from a sector-specific scheme with expertise in dispute resolution to support them to reach a negotiated resolution.

***The costs of a new scheme are expected to be proportionate and manageable***

105. The scheme would generally be free for residents with all establishment and operating costs met by operators. An exception to this would be allowed where a complaint is between residents and cannot be resolved in the early stages. The residents involved in the complaint could be required to contribute to the costs of mediation, a written evaluation or a binding decision. The costs would be shared by the parties to the complaint and the operator. This broadly reflects the status quo where the residents who are parties to the complaint and the operator share the costs of mediation.
106. In other approved dispute resolution schemes, the scheme provider is responsible for estimating their costs for the upcoming financial year and recovering operating and establishment costs from the sector, with a reconciliation process at the end of the financial year.

107. The utilities schemes and financial service schemes are funded by the sector through a combination of annual levies and complaint fees. Broadly, the levy is sufficient for the scheme to take enquiries, triage complaints and resolve complaints through negotiation between the parties. Scheme providers also charge complaint fees for complex complaints, with the fees covering the costs of mediation, a formal written evaluation, or a binding decision. Charging fees helps to incentivise the early resolution of complaints (the costs of which are covered by the levy) and ensures that operators who resolve complaints at the early stages do not face higher levies.
108. We consider that this model could be suitable for a new scheme for retirement villages, with levies potentially apportioned by the number of units in a village. A cost recovery impact statement has been prepared to outline the rationale for the cost recover approach.
109. The scheme provider would have some discretion around fees and charges. However, levies and fees would need to be set at levels to recover establishment and operating costs, with transparency around the method for calculating and apportioning levies, and the amount of fees charged provided in the detailed rules of the scheme.
110. The Ministry has estimated what a new scheme might cost based on information in the Martin Jenkins 2023 cost benefit analysis<sup>5</sup>, and information from the NZDRC and the sector. We have estimated costs for the first year of operation which would include one-off establishment costs. See **Annex A** for a summary of the calculation methodology.

#### Estimated total scheme costs for first year of operation

	Low scenario	High scenario
<b>Establishment (one off) costs</b>	s 9(2)(j)	
Costs associated with developing rules for the scheme, recruitment, establishing processes, IT costs, and promoting the new scheme (this estimate assumes that the scheme provider already has a case management system that can be adapted for the new scheme)		
<b>Operating costs (per year)</b>		
Staff salaries and overheads, legal advice, education and promotion, reporting and independent review		
<b>Total for the first year of operation</b>		
<b>Total cost per retirement village unit</b> (estimated 47,700 units)		

<sup>5</sup> Costs and Benefits of proposed changes to the Retirement Villages Act 2003, Martin Jenkins, 2023: [Cost-benefit-analysis-RVA-review.pdf](#)

111. The cost estimates are based on the following assumptions:
- the first year of operation is 2028
  - an existing dispute resolution scheme provider is appointed to operate the new scheme (maximising cost efficiencies where the provider has a case management system for logging and tracking complaints and experience in developing scheme rules)
  - the number of complaints made to the scheme is between 300 and 470 (estimated using information on the number of formal complaints that are unresolved after 20 days under the current process)
  - based on comparable schemes in other sectors, between 80 percent and 90 percent of complaints referred to the scheme would be resolved at an early stage and would not require mediation, a formal written evaluation or a binding decision.
112. The estimated costs are broadly aligned with the costs of other schemes, although direct comparisons are not possible because of the varying nature and complexity of complaints and the different processes for resolving them.
113. The scheme provider would have flexibility in how they recover the establishment costs. This could be done in the first year of operation, or over more than one year. If the establishment costs are recovered in the first year of operation, the costs in out years could be lower than the year one costs. This would depend in part on the number of complaints made to the new scheme and might not occur if the number of complaints increases significantly.
114. We have estimated marginal costs of the new scheme to account for savings for operators from changes to the current complaint process that would reduce the amount of time operators need to spend processing complaints and reduce costs related to statutory supervisor involvement.

#### **Marginal additional costs of the new scheme in the first year of operation**

	<b>Low scenario</b>	<b>High scenario</b>
Estimated costs of establishing a new dispute resolution scheme	s 9(2)(j)	
Estimated year one costs of operating a new dispute resolution scheme		
<b>Subtotal</b>		
Approximate costs of the current complaint and disputes panel process		
<b>Marginal additional cost</b>		
<b>Marginal additional cost per retirement village unit (including establishment costs)</b> (estimated 47,700 units)		

115. We consider that the scheme costing the sector in the range of \$ 9(2)(j) per unit is proportionate and cost effective. The impact of additional costs being passed on to residents is low.
116. The recommended framework for the scheme minimises other costs faced by the parties to a complaint. In most complaints and disputes, costs to parties would be limited to the time spent making or responding to a complaint, responding to requests for information, preparing for and meeting with the scheme provider or other parties (generally on-line). Seeking legal advice is optional.
117. We do not expect there would be any new costs for the Crown, with existing Ministry departmental funding covering procurement and contracting costs, and Retirement Commission funding for education on retirement village issues contributing to raising awareness of and information about the new scheme.

***Benefits of a new scheme cannot be monetised***

118. We cannot assign dollar values to the benefits to residents or operators. The new scheme will address resident concerns about the current process related to accessibility, fairness and efficiency. We consider that residents with issues or complaints will be more likely to engage with the new scheme, issues will be resolved more quickly and relationships are more likely to be preserved or restored. Barriers to engaging with the current compliant and dispute process will be reduced.
119. We consider that benefits for operators will include reputational benefits and reduced time spent on resolving complex complaints.

**Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?**

120. Yes.

**What are the marginal costs and benefits of the preferred option in the Cabinet paper?**

Affected groups	Comment	Impact	Evidence Certainty
<b>Additional costs of the preferred option compared to taking no action</b>			
Residents	<p>Direct costs - \$0 additional compared to taking no action.</p> <p>Most residents using the scheme will have no direct costs.</p> <p>Where a dispute is between residents, as per status quo, residents could face costs if the dispute is not resolved in the early stages. Residents and operators would contribute to costs of mediation.</p>	<p>\$0 additional direct costs compared to taking no action.</p> <p>Operators could pass costs on to residents.</p>	High



Affected groups	Comment	Impact	Evidence Certainty
	Operator costs could be passed on to residents (for example, through weekly fee increases).		
Operators	Compared to taking no action, the new scheme is estimated to cost between s 9(2)(j) per unit in the first year. Costs would be ongoing and will depend on the number and complexity of complaints. Operators could pass costs on to residents.	Compared to taking no action, the new scheme is estimated to cost operators an additional s 9(2)(j) in the first year.	Medium
s 9(2)(f)(iv)			
Total monetised costs		s 9(2)(j)	Medium
Non-monetised costs		Low	High
Additional benefits of the preferred option compared to taking no action			
Residents	Benefits are non-financial and include a more accessible and user-friendly scheme that is less intimidating, legalistic and adversarial. Scheme provider would be independent and free from conflicts of interest. Residents might be more likely to raise a complaint rather than leave an issue unresolved because they are not willing to engage with the complaint process.	High	High
Operators	Less administration. Complaints that cannot be quickly resolved can be referred to the new scheme. Reputational benefits for the sector.	Medium	Medium

Affected groups	Comment	Impact	Evidence Certainty
Ministry of Housing and Urban Development, Retirement Commission	Benefits are non-financial and include improved monitoring and oversight of the sector through reporting and independent reviews. Trends and systemic issues that might need regulatory responses will be easier to identify.		
<b>Total monetised benefits</b>		N/A	N/A
<b>Non-monetised benefits</b>		High	High

## Impacts on Māori

121. Establishing a new scheme for complaints and disputes in retirement villages is expected to have no direct impacts on Māori beyond those applying to other groups, or associated implications for the Crown's responsibilities under Te Tiriti o Waitangi.
122. While there is limited information available, several operators have commented that Māori, Polynesian and Asian communities make up a very small percentage of retirement village occupancy.<sup>6</sup> In a research survey conducted between June 2016 and August 2018 which sought views from a cross-section of over 500 village residents in Auckland only one percent of residents self-identified as Māori.<sup>7</sup>
123. Cultural conceptions around land and housing (such as living alongside whānau on land with whakapapa or cultural significance) make retirement village living less appealing. Lower rates of home ownership and shorter average life expectancy further impact entry to retirement villages.<sup>8 9</sup>

<sup>6</sup> As noted in this recent article [Outlook on NZ's retirement village sector | JLL](#)

<sup>7</sup> Broad JB, Wu Z, Bloomfield K, Hikaka J, Bramley D, Boyd M, Tatton A, Calvert C, Peri K, Higgins AM, Connolly MJ. Health profile of residents of retirement villages in Auckland, New Zealand: findings from a cross-sectional survey with health assessment. *BMJ Open*. 2020 Sep 18; [Health profile of residents of retirement villages in Auckland, New Zealand: findings from a cross-sectional survey with health assessment - PMC](#)

<sup>8</sup> People of European ethnicity are much more likely to own their home or hold it in a family trust than other ethnic groups, at 57.9 percent. People of Asian ethnicity were second highest at 39.9 percent, followed by Māori at 31.0 percent. Stats NZ (2020). Housing in Aotearoa: 2020. Retrieved from [www.stats.govt.nz](http://www.stats.govt.nz).

<sup>9</sup> Average life expectancy at birth based on death rates at 2017-2019 were 73.4 for Māori males, 77.1 for Māori females, compared with 81 for male European/other and 84.5 for female European/other. See Tatauranga Aotearoa – Stats NZ, "Growth in life expectancy slows," updated 20 April 2021, <https://www.stats.govt.nz/news/growth-in-life-expectancy-slows/>.

## Section 3: Delivering an option

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### How will the proposal be implemented?

#### ***A new complaint and dispute resolution scheme would be established through changes to the Act, regulations and code of practice***

124. The Act will have provisions for either a scheme that is approved by a Minister or a scheme established through regulations. The preference is an approved scheme which involves less government prescription. Legislation for other comparable schemes (for example, in the financial services and utilities sectors) allows for approved schemes or, as a back-up, regulated schemes for situations where the dispute resolution sector does not put forward a suitable scheme for approval.
125. To avoid inefficiencies, the intention is for one scheme to be set up. There is typically one scheme to resolve complaints in other sectors, although notably there are four financial services dispute resolution schemes. Two of the schemes are now in the process of merging to simplify the process for consumers and scheme participants. Given the size of the retirement villages sector (470 villages with 41,000 units as at December 2023), we consider one scheme is appropriate to ensure there is a clear and simple process for residents and operators and to avoid duplication and additional costs.
126. The Act will be amended to have provisions related to:
- the purpose of the scheme
  - enabling an approved scheme or a regulated scheme
  - approval and withdrawal of approval of scheme
  - who can make a complaint to the scheme
  - scope of the scheme
  - no awards of costs and expenses
  - enforcement
  - appeals
  - rules of an approved scheme
  - obligations of an approved scheme.
127. Requirements in the Act related to disputes panels would be amended or repealed and replaced. The Retirement Village (Disputes Panel) Regulations 2006, which provide the detail for disputes panel hearings (for example, appointment of a panel, evidence and witnesses, and the conduct of a hearing), would be repealed in full.
128. The village complaint process set out in the code of practice would be streamlined. Operators would not be required to refer unresolved complaints to the village's statutory supervisor or offer and arrange mediation. Instead, if the operator and resident are unable to resolve a complaint, it could be referred to the new scheme, which would

determine how to progress the complaint. Requirements for retirement village complaint facilities would be updated when the code of practice is redrafted.

### ***Government oversight of the new scheme***

129. The Minister would have oversight of the new scheme through:
- Approving the scheme and its associated rules: scheme rules would be developed by the provider setting out the obligations of participants and how the scheme would operate. Scheme rules are not a legislative instrument, but the rules and any changes would require Ministerial approval. Scheme rules would be developed in consultation with the Ministry, the Retirement Commission and key sector stakeholders. The approved rules would be made publicly available. Matters that must be included in the scheme rules would be in the Act.
  - Independent reviews: we recommend that the new scheme is independently reviewed no later than five years after it begins operating. Subsequent reviews would be undertaken no later than every five years. Among other matters, the reviews would need to consider how well the scheme aligns with the purpose of the scheme and recommend any areas of improvement. The costs of independent reviews would need to be paid by the scheme provider.

### ***The Ministry would run a procurement process for a scheme provider***

130. After the amendment bill receives Royal assent, the Ministry (as the ministry responsible for administering the Act) would run a procurement process to identify a third-party dispute resolution scheme provider to deliver an approved scheme. Applications would be evaluated based on, among other things, experience and expertise, the capacity to deliver the scheme and scale up or down as required, the ability to deliver a scheme that aligns with best practice principles of dispute resolution, and cost-effectiveness.
131. The Ministry is confident that there are dispute resolution scheme providers in New Zealand with the expertise and capability of establishing and operating a scheme for retirement village complaints and disputes.
132. The renewal period for a contract of this nature would be three terms of three years or similar. We consider that costs for the Ministry associated with the procurement process, ongoing contract management and contract renewal would be able to be met through baseline funding.
133. The scheme provider would develop the detailed rules setting out how the scheme will operate. The rules, and any subsequent changes to the rules, would be approved by the Minister. The Act will set out matters that the rules must cover.

### ***Awareness of and information about the new scheme***

134. The scheme provider would be required to promote awareness of the new scheme and provide information to residents and operators about the process for making and progressing a complaint through the scheme. This would need to be done in a way that is appropriate for residents and would likely involve online and printed material.
135. The functions of the Retirement Commissioner under the Act include promoting education and publishing information about retirement villages. The Retirement

Commissioner would contribute to promoting awareness and providing information about the new scheme predominantly through its website.

136. The scheme provider would also be required to collect and analyse information and data about complaints and how they are handled and prepare and publish reports on emerging trends and systemic issues to support sector improvements.

### ***Transition arrangements***

137. We anticipate the earliest a new scheme could be operating is 12 to 18 months after an amendment bill receives Royal assent. The scheme would commence through an Order in Council.
138. The current process for resolving complaints and disputes would continue to operate until a new scheme is ready to begin operating. Any disputes panel hearings that have commenced would be completed under the current process.
139. Any dispute notices issued prior to the date on which the new scheme begins operating could be transitioned to the new scheme, if a panel hearing has not commenced and the parties agree.

### **How will the proposal be monitored, evaluated, and reviewed?**

140. The new scheme will be monitored through:
- agencies' pre-existing systems and processes for monitoring and review
  - independent reviews carried out every five years (with the costs covered by the sector).
141. The Ministry, as lead policy agency responsible for the Act, has an ongoing stewardship role. The Ministry maintains relationships across the Retirement Villages system and is in regular correspondence with representatives of organisations such as the RVA and RVR and will consider any concerns they raise.
142. The Retirement Commissioner, under the Act, holds responsibility for monitoring the effects of the legislative framework for retirement villages to ensure it remains effective. The Retirement Commission has run an independent monitoring programme since 2008, with an annual investigation and report into different aspects of the sector produced each year.
143. The Commission will be able to use its current monitoring framework to investigate and monitor the effects of legislative changes and will consider establishing benchmarks to better understand the impacts on the sector.
144. The new scheme would be independently reviewed no later than five years after it begins operating. Subsequent reviews would be undertaken no later than every five years. Among other matters, the reviews would need to consider how well the scheme aligns with the purpose of the scheme and recommend any areas of improvement. The scheme provider would need to factor in the costs of independent reviews when setting operator levies.

## Annex A: Estimated costs of establishing a new dispute resolution scheme

145. The Ministry applied the following calculation methodology to provide an indicative estimate of costs of establishing and operating a new dispute resolution scheme in 2028. This is the earliest we consider a new scheme could be operating assuming legislation is passed in 2027.
146. We have compared the estimated costs of a new scheme to the costs of the current complaint and disputes panel process to estimate the marginal additional costs to the sector in the first year of operation.

### Step 1: Estimated number of retirement village units in 2028

147. We estimated the total number of retirement village units in 2028 to be 47,659 units by adding three percent per annum to the number of units in 2023 (i.e. 41,111 units<sup>10</sup>).

#### Estimated number of units in 2028

Year	2023	2024	2025	2026	2027	2028
Units	41,111 (actual)	42,344	43,615	44,923	46,271	47,659

### Step 2: Estimated number of formal complaints made to operators in 2028

148. Operators report formal complaints to the Retirement Commission. Since 2022 the average is 1.6 percent of units make a formal complaint.

#### Formal complaints reported to the Retirement Commission, 2022 – 2024

Date	2022	2023	2024
Formal complaints per year (source: Retirement Commission)	542	657	739
Units (source: JLL)	39,072	41,111	42,344 (estimated – see step 1)
Percentage of units making a formal complaint	1.39%	1.60%	1.75%

149. We do not know if the introduction of a new scheme as described in this regulatory impact statement will result in more or fewer formal complaints. For a higher complaint scenario, we have assumed that 2.4 percent of units make a complaint.

<sup>10</sup> New Zealand Retirement Villages White Paper, JLL, August 2024

150. We estimate the total number of formal complaints made to operators in 2028 to be between 763 and 1,144. Not all these complaints will be referred to the new scheme as some will be resolved within a short time by the operator.

**Estimated number of formal complaints made to operators in 2028**

Date	2028
Estimated number of units (see step 1)	47,659
1.6 percent of units make a complaint (low scenario)	763
2.4 percent of units make a complaint (high scenario)	1,144

**Step 3: Estimated costs of the current complaint and disputes panel process in 2028 (status quo)**

151. The 2023 Martin Jenkins cost benefit analysis estimated the overall costs of the current scheme.<sup>11</sup> We have updated the costs estimates for 2028 using the estimated number of formal complaints to operators in step 2. We did not adjust the Martin Jenkins operator processing costs and other costs for inflation.

**Estimated costs of the current complaint and dispute panel process in 2028**

	Low scenario – 763 complaints (see step 2)	High scenario – 1,144 complaints (see step 2)
Operators processing costs (\$240 per formal complaint) <sup>12</sup>	\$183,120	\$274,560
Other costs: <ul style="list-style-type: none"> <li>statutory supervisor (\$1,500 x 12 percent of formal complaints)</li> <li>mediation (\$12,500 x 3 percent of formal complaints)</li> <li>disputes panel (\$20,000 x 1 for low scenario, \$20,000 x 2 for high scenario)</li> <li>expert advice (\$1,500 x 13 percent of formal complaints)<sup>13</sup></li> </ul>	\$544,248	\$826,372
<b>Total costs</b>	<b>\$727,368</b>	<b>\$1,100,932</b>

<sup>11</sup> Costs and Benefits of proposed changes to the Retirement Villages Act 2003, Martin Jenkins, 2023: [Cost-benefit-analysis-RVA-review.pdf](#)

<sup>12</sup> Ibid, page 67-69.

<sup>13</sup> Ibid, page 67-69.



#### Step 4: Estimated number of complaints made to the new scheme in 2028

152. Under the new scheme, operators will have the first opportunity to resolve formal complaints. Complaints can be referred to the new scheme if a resolution cannot be reached or if the resident is not satisfied that the operator is making progress towards resolving the issue.
153. We have assumed that the number of complaints made to the new scheme in its first year of operation will be equivalent to the number of formal complaints reported to the Retirement Commission that are not resolved within twenty days.
154. Over the last four six-month reporting periods to the Retirement Commission, the average percentage of formal complaints not resolved within 20 days is 41 percent.<sup>14</sup> We have used this average percentage to estimate that the number of formal complaints made to the new scheme in 2028 would be between 313 and 469.

#### Estimated number of complaints made to the new scheme in 2028

	Low scenario – 763 complaints (see step 2)	High scenario – 1,144 complaints (see step 2)
Resolved within 20 days (59 percent) – proxy for complaints resolved between operators and residents that <u>will not be</u> referred to the new scheme	450	675
Not resolved within 20 days (41 percent) – proxy for complaints that <u>will be</u> referred to the new scheme for resolution	313	469

155. We do not have any information for estimating the number of enquiries the scheme will receive.

#### Step 5: Estimated year one costs of establishing and operating the new scheme (2028)

156. Year one costs include one off establishment costs and operating costs.
157. Establishment costs include costs associated with developing rules for the scheme, recruitment, establishing processes, IT costs, information for the sector and promoting the new scheme.
158. We have assumed:
- the scheme provider will have a case management system that can be adapted for the new scheme
  - costs associated with procuring a new scheme provider will be met through Ministry baseline funding.

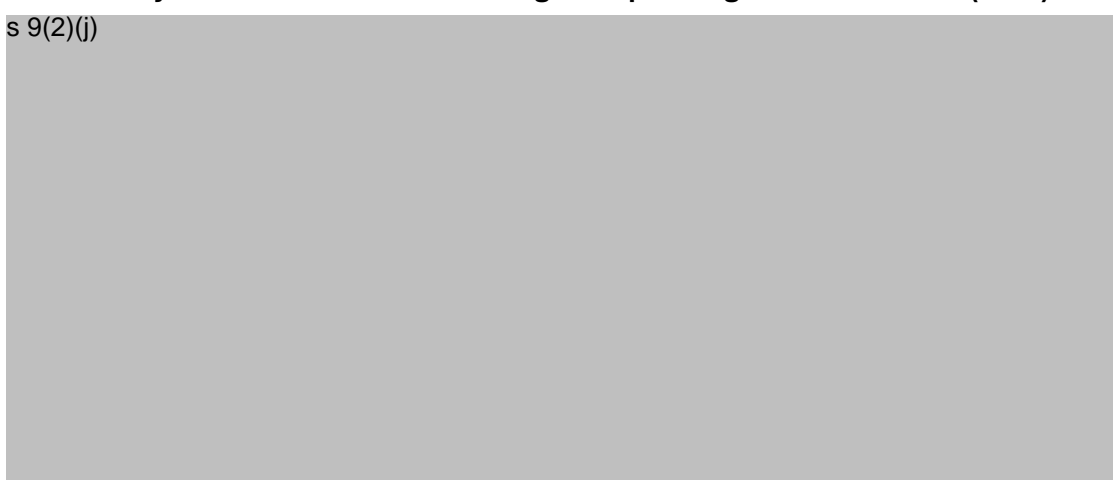
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<sup>14</sup> See complaint data reports on the Retirement Commission website, [Monitoring and reports | Retirement Commission Te Ara Ahunga Ora](#)

159. On-going operating costs include staff salaries and overheads, legal advice, education and promotion, reporting and independent review.
160. We have assumed that 85 percent of complaints made to the new scheme will be resolved at an early stage through a negotiated resolution, and 15 percent of complaints will require mediation, a written evaluation or a binding decision. This is broadly in line with schemes in other comparable sectors. The assumption that 15 percent of complaints will require escalation may be a generous estimate as under the current scheme 3 percent of reported formal complaints are subject to mediation, and 0.5 percent of formal complaints are subject to a disputes panel decision.

**Estimated year one costs of establishing and operating the new scheme (2028)**

s 9(2)(j)



**Step 6: Marginal additional cost for sector of the new scheme in 2028**

161. The marginal additional cost is the difference between the 2028 estimated costs of the current complaint and disputes panel process (step 3), and the new scheme (step 5).
162. We have not included operators processing costs (\$240 per formal complaint – see step 3)) as operators would have these costs under the current scheme and the new scheme.
163. The marginal additional cost for the sector of the new scheme in 2028 is estimated to be between s 9(2)(j) .
164. We estimate the marginal additional costs per unit to be between s 9(2)(j) in 2028. This assumes there are 47,659 units in 2028 (see step 1).

**Marginal additional costs for the sector of the new scheme in 2028**

s 9(2)(j)

