Te Tūāpapa Kura Kāinga
Ministry of Housing and Urban Development

Regulatory Impact Statement: Retirement Villages Act Review – Financial exit matters

Decision sought	The purpose of this analysis is to inform Cabinet decisions on changes to the Retirement Villages Act 2003 to improve consumer protections for residents when moving out of a retirement village.
Agency responsible	Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development
Proposing Ministers	Hon Tama Potaka, Associate Minister of Housing
Date finalised	12/11/2025

One of the biggest concerns of retirement village residents is long wait times for their capital sum repayment, as there is no legislative obligation for a village operator to repay an exiting resident's capital sum until their unit has been relicensed. To help address this issue, the Minister is proposing legislative changes to:

- introduce an application scheme for early repayment of funds to an exiting resident in circumstances where there is an essential need,
- require interest payments after six months to compensate residents for long wait times and incentivise earlier capital repayments,
- require capital payments at 12 months if the former resident's unit has not already been relicensed,
- introduce enhanced reporting requirements to improve resident visibility of progress being made towards relicensing their unit, and
- enable earlier access to dispute resolution services to help in circumstances where operators are not meeting their obligations.

While these changes will not meet all the aspirations of residents (who are seeking earlier capital repayment timeframes), as a package, they are expected to incentivise relicensing, provide certainty around maximum repayment timeframes, and enable residents to access their funds earlier than they can currently where there is an essential need.

The Minister is also proposing to:

- require operators to stop charging weekly fees immediately after exit,
- require any fixed deductions charged to stop accruing immediately after exit, and
- ensure residents are only liable for capital losses to the same extent they are entitled to capital gains.

These three changes have already been adopted by many operators as best practice, are expected to improve fairness, and reduce financial stress for exiting residents.

Summary: Problem definition and options

What is the policy problem?

Residents, representative organisations, and consumer groups have raised concerns for many years that the Retirement Villages Act 2003 (the Act) does not provide adequate protections for residents, especially given the potential vulnerability of some older people.

Regarding financial exit matters, the following key concerns have been raised by stakeholders:

- operators can continue to charge weekly fees after a resident moves out, even though former residents no longer receive the benefits of the services paid for by these charges,
- the fixed deduction from a resident's capital sum can continue to accrue in the period between the occupation right agreement (ORA) termination date and the unit being relicensed,
- some operators have capital loss clauses in their ORAs which can make an outgoing resident liable (in part or full) for any capital loss from relicensing the resident's unit, even if the resident is not eligible to share any potential capital gains, and
- residents also have no certainty about when they will receive their capital sum repayment after exiting, and some may have to wait a long time, as there is no legislative obligation for the operator to repay until the unit has been relicensed.

Voluntary changes in the sector initiated by the Retirement Villages Association (the RVA) (the 'Blueprint for New Zealand's Retirement Villages Sector') have helped to improve sector practices when residents are moving out of their unit. However, without legislative changes the issues raised by stakeholders will not be fully addressed.

What are the policy objectives?

The overarching objectives of the Retirement Villages Act review (the review) are to ensure:

- adequate consumer protections for 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, and
- the rights and responsibilities of residents and operators are appropriately defined, including where they may differ for different occupancy rights.

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

Issue One – Weekly fees

Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development (the Ministry) considered the following options to address issues with weekly fees continuing to be charged after a resident moves out:

- Option one – Status quo,
- Option two – Stopping weekly fees shortly after exit, and
- Option three – Stopping weekly fees immediately after exit.

Stopping weekly fees immediately after exit (option three) is the Minister's preferred option. This aligns with sector best practice, improves fairness and reduces costs for residents.

Issue Two - Fixed deductions

In relation to fixed deductions (a percentage subtracted from the capital sum when the resident moves out of a village for the use of the village facilities), the Ministry considered:

- Option one – Status quo,
- Option two – Requiring fixed deductions to stop accruing shortly after exit,
- Option three – Requiring fixed deductions to stop accruing immediately after exit, and
- Option four – Improving clarity on what fixed deductions will pay for.

Requiring fixed deductions to stop accruing immediately after exit (option three) and improving clarity in ORAs on what fixed deductions will pay for (option four) are the Minister's preferred options. These changes are expected to improve consumer protections and transparency for residents in relation to this topic area.

Issue Three - Capital loss clauses

In relation to capital loss clauses in residents' ORAs, the Ministry considered:

- Option one – Status quo, and
- Option two – Limiting circumstances where residents can be liable for capital losses

Limiting circumstances where residents can be liable for capital losses (option two) is the Minister's preferred option. This option more fairly shares the risks of capital losses and potential benefits from capital gains between operators and residents.

Issue Four – Incentivising or requiring earlier capital repayments

The Ministry considered eight options for incentivising or requiring earlier capital repayments when residents move out of a village:

- Option one – Status quo,
- Option two – Introducing an application scheme for early repayment for specified needs,
- Option three – Introducing an initial 10 percent repayment requirement,
- Option four – Introducing a mandatory repayment timeframe,
- Option five – Requiring interest payments after six months,
- Option six – Amending reporting requirements,
- Option seven – Bringing forward timeframes for valuation requirements, and
- Option eight – Enabling earlier access to the disputes regime.

The Minister’s preferred package of legislative changes is to:

- introduce an application scheme for early repayment of funds to an exiting resident in circumstances where there is an essential need (option two),
- requiring interest payments after six months to compensate residents for long wait times and incentivise earlier repayment timeframes (option five),
- introduce a 12 month mandatory repayment timeframe (option four),
- introduce enhanced reporting requirements to improve resident visibility of progress being made towards relicensing their unit (option six), and
- enable earlier access to dispute resolution services to help in circumstances where operators are not meeting their obligations (option eight).

What consultation has been undertaken?

Public and stakeholder consultation

The Ministry released a discussion document on options for changes to the Act in early August 2023 that received over 11,000 public submissions. The Ministry also engaged with key stakeholders such as the Retirement Village Residents’ Association (RVR), the RVA and the Corporate Trustees Association (CTA), which represents retirement village statutory supervisors, through a series of meetings on other options to incentivise or require earlier capital repayments that have arisen following public consultation.

There was a very high level of support in submissions across residents, operators and other stakeholders for stopping weekly fees and fixed deductions accruing when a resident moves out and only requiring residents to be liable for capital losses to the same extent they are entitled to capital gains. The options included in the discussion document to improve certainty on capital repayment timeframes were a lot more contentious, with stakeholders holding opposing views.

The RVR have advocated for a ‘four pillars’ approach to the repayment of residents’ capital sums, which involves:

- an initial payment – 10 percent of the refundable amount, or $50,000, whichever is the greater, within 5 days of notice to terminate or moving out of the premises,
- the balance of the refundable amount within four months from notice to terminate or three months from vacant possession, whichever comes later,
- an extension mechanism for operators to either pay partially or suspend payment where no lines of credit are achievable and repayment would cause undue financial hardship or insolvency, with compensatory interest payable, and
- an exemption for operators that share 50 percent or more of the capital gain.

The RVA and the CTA prefer a more targeted ‘applications only’ approach, over a fixed percentage payment on exit option. The RVA have raised concerns that some operators may not have sufficient capital reserves to meet an initial 10 percent repayment requirement, while other operators may need to significantly raise costs to residents to compensate.

<u>Agency consultation</u>

Agency feedback primarily focused on the options of introducing a mandatory repayment timeframe and a potential initial repayment requirement.

The Retirement Commission’s preference is for a 9 month mandatory repayment timeframe to be included in the package of legislative changes, alongside an initial 10 percent repayment requirement. The Retirement Commission considers this will improve consumer protections and provide certainty to residents on the maximum timeframe they will need to wait for the remainder of their capital sum to be repaid.

While the Office for Seniors sees a nine month mandatory repayment timeframe as an acceptable solution, it noted that the Ministry’s preferred option offers a viable and less costly alternative.

Whaikaha – Ministry of Disabled People supports the Ministry’s preferred option three to introduce an initial ten percent repayment requirement for residents who move out of a village to live elsewhere. They noted that there are practicality concerns in an application scheme-based approach because it would put the onus on residents and their whānau to be aware of, and apply for, early repayments. This could be a particular barrier for older disabled people or disabled whānau who may find the application process inaccessible or may already be dealing with additional stressors and processes.

The Office for Rural Communities supports introducing maximum repayment timelines (e.g., six to nine months), automatic interest for delays, and monitoring/reporting of repayment times, highlighting rural equity implications. Regarding early repayment options, they also support automatic partial repayments (e.g., 10 percent), guidance for operators to process applications efficiently, and cost caps to reduce financial stress on rural residents.

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

No. The preferred options to address issue four 'incentivising or requiring earlier capital repayments' differ.

Option	**Ministry's preferred option in RIS**	**Minister's preferred option in Cabinet paper**
Option one – Status quo		
Option two – Introduce an application scheme for early repayment for specified needs	Former residents and estate beneficiaries ✓	Former residents (but not estate beneficiaries) ✓
Option three – Introduce an initial 10 percent repayment requirement	✓	
Option four – Introduce a mandatory repayment timeframe		✓
Option five – Require interest payments after six months	With interest rate increases over time ✓	With a flat interest rate ✓
Option six – Amend reporting requirements	✓	✓
Option seven – Bring forward timeframes for valuation requirements		
Option eight – Enable earlier access to the disputes regime	✓	✓

The preferred option in the RIS to address issue four is the introduction of the following package of reforms:

a. a 10 percent partial early repayment requirement to residents who are exiting their unit to live elsewhere to address immediate needs (option three),

b. in combination with an application scheme for residents who need further funds, or resident's estate beneficiaries who need funds to alleviate significant financial hardship where the resident has passed away (option two),

c. requiring interest payments on residents' outstanding funds after six months of the unit being vacated with stepped increases in the applicable interest rate after nine, and twelve months (option five), and

d. enhanced reporting requirements and improved access to the disputes process.

The Ministry consider that the addition of option three to the package of legislative changes would improve consumer protections and reduce the immediate financial stress experienced by residents when moving out of their unit into aged residential care or alternative accommodation. It would also remove the need for most residents to go through an application process, which can be intrusive and stressful.

Additionally, extending eligibility for the application scheme to estate beneficiaries where the resident has passed away delivers additional benefits by providing assistance to more individuals. However, these additional benefits would come at a higher cost to operators.

Officials did not recommend a mandatory repayment timeframe but considered that a maximum repayment timeframe from nine months onwards would be feasible for the sector, with extensions and exemptions to manage risk. The financial benefits of a nine month mandatory repayment timeframe would accrue to a greater number of residents (almost double) compared to a twelve month repayment timeframe.

Regarding the other proposals, the Minister's and the Ministry's preferred options are aligned.

Summary: Minister's preferred option in the Cabinet paper

Costs

Stopping weekly fees after exit

It is estimated that 84 percent of operators have already stopped charging weekly fees after a resident exits their unit, in line with sector best practice. For the minority of operators who currently continue to charge weekly fees after exit, the average cost impact per unit per annum is estimated to be between \$453 – \$629.

Stopping fixed deductions from accruing after exit

While the Ministry does not have the necessary data to be able to accurately model cost impacts, the Ministry expects overall cost implications for operators to be relatively low as most operators already stop fixed deductions from accruing after a resident's exit from the village, in line with sector best practice.

Addressing capital loss clauses

Only a small number of ORAs have capital loss clauses (less than 15 percent) and capital losses over the length of a resident's stay are rare. The impact for operators of this change is very low.

Application scheme for early repayment of funds

While the Ministry cannot model indicative costs due to data limitations, the Ministry expects overall costs to be relatively low as the scheme is focused on meeting specific needs (i.e., accommodation needs or other specified needs relating to hardship), and a number of operators already provide partial early repayment of funds on an ad hoc basis.

Requiring interest payments after six months

Where an operator currently pays no interest to former residents, the proposal could result in new residents paying an estimated additional $1,035 – $2,976 through a more expensive upfront capital sum for purchasing an ORA or a higher fixed deduction on exit, if all costs are passed on. Many operators already provide interest payments to former residents if their unit has not been relicensed after either six or nine months, so cost impacts would be lower for these operators.

Mandatory repayment timeframe

A 12 month mandatory repayment timeframe is expected to have an associated opportunity cost for the retirement village sector of an estimated $34 – $63 million per annum. On a cost per unit per annum basis this equates to between $735 – $1,378. The Ministry estimates that, if operators passed on all increased costs of holding sufficient capital to meet a 12 month timeframe to residents, they could expect to pay an average of $6,466 – $12,120 per unit in an increased capital sum or fixed deduction per unit. It is unlikely that operators would pass all increased costs onto residents through the upfront capital sum, as retirement village unit prices are generally influenced by and correlated with the wider housing market.

Improving reporting requirements and access to dispute resolution services

The costs related to these relatively minor changes are expected to be minimal.

Benefits

Stopping weekly fees after exit

Indicative cost savings for exiting residents from this proposal could range from $2,080 on average if the unit is relicensed after 3 months to $8,320 if the unit is relicensed after 12 months.

Stopping fixed deductions from accruing after exit

This proposal would benefit residents who have lived in their unit for a short period of time (i.e., their fixed deduction has not fully accrued) and their unit takes longer than average to be relicensed. The Ministry does not have the data needed to quantify the benefits but estimate the benefit for a small number of former residents could be significant. A five percent increase in a fixed deduction on a $600,000 capital sum is $30,000.

Addressing capital loss clauses

For the small number of residents who have capital loss clauses in their ORAs, this change will improve fairness and remove the risk of a loss of funds from their net termination proceeds due to capital losses where the resident is not entitled to any capital gains.

Application scheme for early repayment of funds

The application scheme will provide exiting residents an avenue to seek early repayment of funds from their net termination proceeds where there is a pressing need for funds. This is expected to help address the most common complaints about lack of access to funds and reduce financial stress for exiting residents.

Requiring interest payments after six months

Interest payment requirements will provide financial compensation to residents for long wait times and an additional financial incentive for operators to relicense units as quickly as possible. For new residents in the first year following introduction, indicative interest payments at the time they move out would be expected to range from $4,458 – $7,047, for a unit sold at 9 months, to $8,915 – $14,094, for a unit sold at 12 months.

Mandatory repayment timeframe

All residents will benefit from improved certainty about when they will receive their funds after termination of their ORA with the introduction of a mandatory repayment timeframe. Furthermore, the Ministry expects approximately 5 –10 percent of exiting residents per annum will benefit financially (depending on market conditions) from receiving funds earlier than they otherwise would have, without the mandatory repayment timeframe being in place. This equates to around 275 – 687 residents per annum, who could receive between $6,122 – $16,734 in additional financial return from receiving their money earlier than they otherwise would have.

Improving reporting requirements and access to dispute resolution services

These changes are expected to give residents better visibility of progress made to relicense their unit, and to help exiting residents or their estate beneficiaries resolve issues related to relicensing more quickly where operators are not meeting their obligations.

Balance of benefits and costs

The Ministry considers the benefits of the Minister's preferred package of legislative changes are likely to outweigh the costs. While these changes will not meet all the aspirations of residents, as a package they are expected to improve fairness and reduce financial stress for exiting residents and their whānau. The expected costs and risks to operators are relatively low. This package of changes represents a marked improvement over the status quo.

Implementation

If Cabinet agrees to the package of proposed legislative changes an amendment Bill is expected to be introduced by July 2026 and enacted in 2027.

A phased commencement is planned from 2027 for some provisions to allow for regulation making and to provide a transitional period for the sector to implement changes. Operators will need time to update their ORAs and adjust their business practices as necessary.

The Ministry considers the overall risks associated with the package of policy changes to be relatively low, with no likely impact on the overall viability of the sector. Many of these changes represent sector best practice that has already been widely adopted across the industry.

Specific risks related to the application scheme for early repayment of funds have been addressed by:

- the use of exemptions for specific types of operators and arrangements, and
- the ability for operators to decline an application if it would place the village in undue hardship, at risk of insolvency, or risk the continued provision of key services and amenities to village residents.

Risks and equity issues related to introducing a mandatory repayment timeframe are being managed through:

- operators having the right to apply for an extension of up to six months in exceptional circumstances,
- specific exemptions such as for small villages with less than 50 total units or where villages share capital gains, and
- only applying mandatory repayment timeframe requirements to ORAs entered into twelve months after the legislation is passed to allow operators time to adjust their business practices.

Post-enactment, the Ministry will work with the Retirement Commission, the Registrar of Retirement Villages (the Registrar) and representative groups such as the RVA, RVR and CTA to get information out to operators, statutory supervisors and residents on changes to the Act and what those changes mean for them.

Limitations and Constraints on Analysis

The main limitations and constraints on the analysis of options and assessment of impacts relate to the availability of data and evidence.

Data limitations have prevented accurate modelling of costs for proposals to stop fixed deductions from accruing after exit, address capital loss clauses and introduce an application scheme for early repayment of costs. Instead, a qualitative analysis of cost implications has been provided.

Where costs have been modelled, it is important to note that these estimates have used a range of assumptions, such as average ORA prices, indicative relicensing rates, interest rates and average weekly fees. Impacts for individual villages will vary more widely. Additionally, any significant changes in market conditions would also impact the accuracy of expected costs. No cost savings have been assumed from any behavioural shifts by operators in response to legislative changes to incentivise earlier repayment timeframes.

Summary: Agency's preferred option

Costs
Indicative modelling shows that the sector would collectively need to hold, or have access to, working capital of between $121 million – $210 million for an initial 10 percent repayment requirement on exit. This has an associated opportunity cost of between $12 million – $32 million per annum for the sector, which works out to a cost of between $264 – $689 per unit per annum. If all costs are passed on to new residents through a more expensive upfront capital sum for purchasing an ORA, or through a higher fixed deduction on exit, around $2,322 – $6,062 could be added to the purchase price of new ORAs or to the fixed deduction from 2029. However, the Ministry would expect a much lower number of applications for further funds due to the initial 10 percent repayment requirement compared to the Minister's preferred option. This option would also have reduced administrative complexity. Expanding eligibility for the application scheme to estate beneficiaries on hardship grounds where the resident has passed away, is expected to have relatively low additional costs based on the number of applicants for similar hardship application schemes (e.g., the KiwiSaver hardship scheme). Interest costs would be somewhat higher, the proposal could result in new residents paying an estimated additional $1,618 – $5,148 through a more expensive upfront capital sum for purchasing an ORA or a higher fixed deduction on exit, if all costs are passed on, as the Ministry's preferred option is for stepped increases in the applicable interest rate after nine, and twelve months. However, there would be no additional costs associated with introducing a mandatory repayment timeframe.
Benefits
If a 10 percent initial repayment requirement is introduced, a new resident purchasing an average value retirement village unit in 2029 could expect to receive back around $61,000 shortly after exit from their net termination proceeds owed. This would be sufficient in most cases to address pressing needs, such as moving costs and aged residential care or alternative accommodation costs, reducing financial stress for exiting residents. The certainty for residents around the 10 percent partial early repayment and when they would receive it is also expected to reduce emotional stress and reduce the need for most residents to go through an application process, which can be intrusive and stressful. Expanding eligibility for the application scheme to estate beneficiaries on hardship grounds delivers additional benefits by providing assistance to more individuals, where this is needed. The value of interest payments for residents would also be higher for units taking longer than 9 months to sell, given the proposed stepped increase in the applicable interest rate over time. For example, for new residents in the first year following introduction, indicative interest payments at the time they move out would be expected to increase to $10,330 – $15,509 for a unit sold at 12 months.

Balance of benefits and costs

The Ministry considers the benefits of including an initial 10 percent repayment requirement in the package of legislative changes are likely to outweigh the costs. While cost modelling indicates a new resident in 2029 could end up paying between $2,322 – $6,062 through an increased capital sum or fixed deduction on exit, they would receive around $61,000 on average shortly after exit (i.e., they would receive this payment earlier than they would have otherwise).

This would reduce the immediate financial stress experienced by residents when moving out of their unit into aged residential care or alternative accommodation. The automatic nature of the payment would also remove the need for most residents to go through an application process, which can be intrusive and stressful.

The Ministry considers expanding eligibility for the application scheme to estate beneficiaries on hardship grounds would provide benefits to more individuals at relatively low costs to operators.

Many exiting residents would also receive higher interest payments due to the stepped increase in the applicable interest rate over time. However, they would not receive the benefit of a mandatory repayment timeframe.

Implementation

If Cabinet decides to progress with the Ministry's preferred option, we recommend the 10 percent repayment requirement apply to ORAs entered into 1 - 2 years after the legislation is passed to allow time for operators to adjust their business systems and funding arrangements, and to minimise risks to sector viability.

The Ministry has also proposed exemptions for specific types of operators and arrangements, such as small villages with less than 50 total units, to reduce the risk of villages facing financial difficulties and to help maintain a range of housing choices for future residents.

Limitations and Constraints on Analysis

Cost modelling for an initial 10 percent repayment requirement relies on assumptions about the average total number of units, cost of an ORA, the fixed deduction on exit, and the likely proportion of exits due to a deceased estate. Impacts for individual villages will vary more widely. Additionally, any significant changes in market conditions would impact the accuracy of expected costs.

Due to data limitations, the Ministry is unable to accurately model the financial impact of opening up eligibility for the application scheme to estate beneficiaries on hardship grounds. Instead, a qualitative analysis of cost implications has been provided.

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

Katherine Slaney

Date: 12/11/2025

Quality Assurance Statement	
Reviewing Agency: Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development	**QA rating:** Meets
Panel Comment: The RIA Panel at Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (the Ministry) has reviewed the regulatory impact statement for *Retirement Villages Act Review – Financial Exit Matters* and confirmed that it meets the requirements. Analysis is robust and appropriately informed by supporting cost benefit analysis and has been well tested with potentially impacted parties. Some data limitations have prevented accurate modelling of estimated costs for some options (including options to address capital loss clauses), however a thorough qualitative analysis with clear assumptions has been used where these limitations apply.	

Section one: Diagnosing the policy problem

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

The retirement villages sector is governed by the Retirement Villages Act 2003

1. The Act has two main purposes. Firstly, to protect the interests of residents and intending residents, and secondly to enable retirement villages to develop under a legal framework readily understandable by residents, intending residents and operators. The Act requires the operator and resident to enter into a detailed ORA spelling out each party's rights and obligations.

2. The vast majority of operators use a similar business model where they receive payment from residents through an upfront capital sum and ongoing weekly fees. Operators charge a fixed deduction from the capital sum when a unit is vacated of between 20 to 30 percent. The vast majority typically retain any capital gain when a unit is resold or relicensed. The fixed deduction usually accrues over the first few years of occupancy.

3. The initial intention of the legislation was to provide a framework for retirement living options in a then-nascent industry. The industry has grown in scope and complexity since 2003, when the Act was introduced, and projections are for further significant growth. An estimated 53,400 residents now live in 470 retirement villages across New Zealand.[1] This equates to 14 percent of the 383,000 New Zealanders aged over 75. The number of residents in retirement villages is expected to increase to 77,494 residents by 2033, and to 112,624 residents by 2048.[2]

4. In the early years, retirement village providers were typically not-for-profit organisations with links to churches or charitable foundations. Commercial operators now dominate the sector. The largest six commercial operators currently own 67 percent of all units.[3] Four of these large commercial operators are listed on the New Zealand stock exchange and have responsibilities to their shareholders. The remainder of the sector includes a mix of both smaller commercial operators, who may only own one or two villages, and not-for-profit operators.

5. Other than some revisions to the Retirement Villages Code of Practice 2008 (the Code), which has the status of secondary legislation, no wholesale review has been conducted to assess whether the balance of power between operator and consumer is appropriate.

A number of concerns with the Act have been raised by sector stakeholders

6. Residents, representative organisations and consumer groups have raised concerns for many years that the legal framework that covers the rights and obligations of residents and operators of retirement villages does not provide adequate protections for

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[1] New Zealand retirement villages White Paper, JLL, August 2024.

[2] According to the New Zealand retirement villages white paper produced by JLL, August 2024.

[3] *Ibid.*

residents, especially given the potential vulnerability of older people. ORAs are offered with very limited room to negotiate terms.

7. In 2020 the Retirement Commission published the *White Paper: Retirement villages legislative framework: Assessment and options for change* (the White Paper), seeking submissions on the effectiveness of the legislative framework and how it balances the interests of operators and residents.

8. The Retirement Commission received over 3,000 submissions on the White Paper. In its subsequent submissions summary and recommendations report in 2021, the Retirement Commission highlighted issues and concerns with the retirement villages regime, many related to consumer protection and the need to rebalance the rights and responsibilities of operators and residents. The Retirement Commission called for the government to undertake a full review of the legislative framework.

9. Petitions calling for change have also been brought to Parliament. Sue Brown, a family member of a former resident, submitted a petition in 2020 focused on issues with transfers to aged residential care. The RVR submitted a petition in 2021 calling for a full legislative review and for capital sums to be repaid 28 days after a resident moves out of a village.

In response, the Government initiated a wide-ranging review

10. The Ministry started a review of the Act in late 2022 with a broad scope covering the three main phases of retirement village living – moving in, living in, and moving out – as well as other general topics. A discussion document was released in August 2023 and received over 11,000 submissions on options for change.

11. In October 2024 the Government announced it would continue to progress the work on the review focusing on the areas of highest importance. This covers proposals in the discussion document with high levels of support and three priority areas for residents:

- maintenance and repairs of operator-owned chattels and fixtures,
- managing complaints and disputes, and
- options for incentivising or requiring earlier capital repayments when residents move out of a village.

The Commerce Commission also launched an investigation under the Fair Trading Act 1986 into unfair contract terms in ORAs

12. The Commerce Commission (the Commission) launched an investigation in 2023 into complaints by the RVR about potentially unfair contract terms in ORAs that included key financial terms, including terms relating to exit payment date times, end dates for charging of weekly fees following ORA termination, and end dates for the accrual of fixed deductions on termination.

13. The Commission found that it did not have clear and unambiguous jurisdiction under the unfair contract terms provisions of the Fair Trading Act 1986 (FTA) to consider some of these key financial exit terms. As such, the Commission decided not to investigate for unfairness in these key financial exit terms. The Commission advised the Ministry that their decision not to investigate these terms is not to be interpreted as a finding that there were no issues regarding unfairness with these key financial exit terms. Rather,

the Commission considered that the complaints about these terms were best dealt with as part of the review of the Act.

Without legislative change the issues raised by stakeholders will not be fully addressed

14. In 2021 the RVA launched a 'Blueprint for New Zealand's Retirement Villages Sector' (the Blueprint) to help improve sector practices. The Blueprint included commitments to making sure operators relicense vacant units as quickly as possible, stop weekly fees once a unit is vacated, and to clearly set out responsibilities for repairs and maintenance of operator-owned chattels. The Ministry expects, therefore, that without legislative change there may be some ongoing improvements in sector best practice.

15. However, not all registered retirement villages are members of the RVA, and not all operators are likely to voluntarily adopt sector best practice. The Blueprint does not address a number of key issues raised by residents and other stakeholders.

16. Without legislative change, issues raised by stakeholders are unlikely to be fully addressed and the Ministry expects ongoing concerns to be raised about unfair practices, a lack of consumer protections and the perceived imbalance between the rights and responsibilities of residents and operators of retirement villages.

17. Furthermore, future cases could be taken to the Commission and the Courts regarding potential breaches of the FTA. The Commission does have the power under the FTA to seek a court declaration the certain contract terms are unfair. This would likely relate only to one operator and ORA. Though a successful court application for a declaration would send a strong message to the sector that such terms are unfair, a court declaration would not prohibit other operators from retaining and relying upon similar terms in their ORAs.

What is the policy problem or opportunity?

18. Residents, 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.

19. Furthermore, the current minimum legislative requirements for operators when an ORA is terminated are imbalanced in favour of operators and do not provide sufficient consumer protections for residents.

Issue One - Retirement village operators can continue to charge weekly fees after a resident moves out

20. The Code allows operators to continue to charge weekly fees to former residents until their unit has been relicensed (albeit discounted by 50 per cent after 6 months). These fees are generally between $100 – $200 per week, depending on the village's amenities and services.[4] These fees cover operators' costs relating to the operation, management, supervision, and maintenance of the village.

21. The ability of operators to continue charging fees to a resident (or their estate) after a resident's ORA termination date is considered by many in the sector to be unfair, as

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[4] Understanding Weekly fees for Retirement Villages in New Zealand. 2025. https://silvercare.org.nz/home/retirement-villages/weekly-fees-for-retirement-villages/

former residents no longer receive the benefits of the services paid for by these charges. In extreme circumstances where there are delays relicensing a unit, this can mean former residents continue to pay weekly fees for over 12 months from their ORA termination date. This can cost residents thousands of dollars in additional costs, creating a significant financial burden, particularly if a resident has moved to another retirement village or aged care provider and must pay two lots of weekly fees at the same time.

22. The RVR has commented that ongoing weekly fees was one of the most important issues that residents wanted addressed in a 2022 member survey. Additionally, the RVR complaint to the Commerce Commission in 2022 included potentially unfair contract terms related to weekly fees continuing to be charged after a resident leaves their village. s 9(2)(h) [redacted]

Issue Two - Fixed deductions from resident's capital sums can also continue to accrue

23. Retirement village operators typically charge residents a fixed deduction upon vacating their unit. The fixed deduction is subtracted from the repayment of the original capital sum paid to purchase the ORA, once the unit has been relicensed. Fixed deductions are designed to reflect the benefit the resident received from their use of the facilities in the village during their time there and accrue over time. The deduction also includes a margin to help cover capital costs of supplying and upgrading the village and facilities for future residents.

24. The amount of the fixed deduction and the rate of accrual varies across villages. However, it is typically a maximum of 20 to 30 percent of a resident's capital sum. Fixed deductions applied to ORA care suites and memory suites can often accrue more quickly than ORAs for independent living units (reflecting the fact that average stays are shorter in care suites).

25. Residents and other stakeholders have raised concerns that fixed deductions can continue to accrue in the period between a resident vacating a unit and the unit being relicensed. This is despite the resident no longer receiving the benefit of the facilities that the deduction is being charged for.

26. The RVR's complaint to the Commerce Commission in 2022 included this concern as a potentially unfair contract term in ORAs. s 9(2)(h) [redacted]

27. For example, consider an ORA in a retirement village that is sold for $400,000 with a 25 per cent fixed deduction that accrues at 5 percent each year over 5 years. If a resident vacated a unit after 3 years, the fixed deduction would be $60,000, but if the unit is not licensed for another 12 months, the fixed deduction subtracted from their exit entitlement would increase to $80,000.

28. While it is sector best practice for fixed deductions to stop accruing once a unit is vacated, some operators continue to allow fixed deductions to accrue. This can result in a substantial loss of money for residents or their estate.

29. Concerns have also been raised about a lack of transparency and confusion among residents about what the fixed deduction is being charged for, with some residents reportedly thinking that they would receive the balance back, despite receiving legal advice on the terms of their ORA.[5]

Issue Three - Some operators have unfair capital loss clauses in their ORAs

30. The capital sum charged to incoming residents to purchase an ORA will vary depending on when it is purchased. A capital gain or loss is possible when a unit is relicensed. An ORA can make an outgoing resident liable (in part or full) for any capital loss from relicensing the resident's unit, even if the resident is not eligible to share any potential capital gains. Placing the risk of capital loss on residents whilst only operators stand to benefit from capital gains is perceived by residents as one-sided and unfair. ORAs are offered with very limited room to negotiate terms.

31. The CTA estimated that in 2022 approximately 15 percent of villages had only capital loss clauses (i.e., capital loss without capital gain). The RVA is encouraging its members to remove these clauses from their ORAs as best practice, but not all retirement villages are likely to do so without legislative change.

Issue Four - Residents may have to wait a long time to receive their capital sum repayment

32. Residents pay a capital sum in return for their right to live in the village. This capital sum (minus the fixed deduction) is repaid to outgoing residents (or their estate) after they leave the village. However, village operators are not obligated to repay an outgoing resident's capital sum until the vacated unit has been re-licensed and paid for, a position that is currently sanctioned by clause 54(6) of the Code.

33. Operators are required to take all reasonable steps to enter into a new ORA for a vacated unit in a timely manner and for the best price reasonably possible. This includes:

- consulting former residents (or their estate) on the marketing of the unit and keeping them informed on a monthly basis on the progress of marketing,
- after three months, providing a written report to the former resident or their estate, stating the steps taken to market the unit and progress made towards finding a new resident. The operator must then provide monthly reports until the unit is relicensed, and
- after six months, obtaining a registered valuation of the unit to establish a suitable price to market the unit at. The former resident or their estate may obtain their own valuation if they disagree with the one obtained by the operator.

34. If a former resident's unit has still not been relicensed after nine months, the resident may lodge a dispute notice. The disputes panel can require the operator to market the

[5] Before signing a retirement village ORA, prospective residents are required to get independent legal advice.

unit in a certain way or at a certain price, pay interest to the former resident, or repay the former resident's capital sum within a certain timeframe.

35. s 9(2)(g)(i) [redacted] The disputes panel process also does not appear to have ever been effectively used to manage outlier cases where residents are waiting a long time to receive their capital repayment.[6]

36. Capital sum repayment timeframes are a key concern for residents and formed part of the 2022 RVR complaint to the Commerce Commission. The current rules under the Code are considered by many residents to be unfair and overly favourable to operators.

37. Operators maintain the interest-free use of former residents' capital sums until the repayment is made. This generally includes a period after the unit is vacated until it is sold, and the incoming resident has paid the operator. Former residents and/or their estates can be disadvantaged as they do not have access to their money. This can be a particularly acute issue where the funds are needed to help pay for a resident's transition into aged care or alternative accommodation in another village or in the community.

38. Data provided by the RVA indicates that:

- in 2021, when the market was strong, 77 percent of units were relicensed within 6 months and only 9 percent (238 units) took 9 months or more, and
- in 2023, during the market downturn, 63 percent of units were relicensed within 6 months, and 15 percent of units took 9 months or more to relicense.

39. The Ministry is aware that, in some cases, former residents or their estates have had to wait over 12 months to receive their capital sum repayment and in extreme circumstances, some have had to wait over 2 years. This can cause significant financial and emotional stress for former residents and their whānau.

40. Again, due to the Commerce Commission's finding that it did not have clear and unambiguous jurisdiction under the FTA to investigate this concern as an unfair contract term, the Commerce Commission was of the view that the complaints around the unfairness of this term was best dealt with as part of this wider legislative review of the Act.

Other minor issues and potential legislative clarifications

41. During the review other minor issues and potential legislative clarifications have also been raised regarding financial exit matters. These include:

- new residents moving in before paying – we are aware of cases where operators have not paid a former resident's net termination proceeds until after a new resident

[6] No dispute panel decisions going back to 2007 appear to have ever ordered operators to repay a resident's capital sum before a new resident has been found.

moves into the former resident's unit (pending the sale or the new resident's previous home),[7]

- a lack of independent oversight of payments to former residents – while legislation requires all payments for the purchase of an ORA to go through the statutory supervisor (if one is appointed), there is currently no legislative requirement for statutory supervisors to be involved in the repayment to former residents,

- confusing and out of date Code provisions for refurbishment costs and processes for example, clauses that relate to pre-2006 ORAs. These could be simplified to improve clarity on the rights and responsibilities of operators, and

- ORA terms which allow operators to directly pass on marketing and sales fees to residents (instead of incorporating these costs in upfront charges) – in the context of its recent retirement village investigation into unfair contract terms in ORAs, the Commerce Commission expressed that such terms raised concerns related to the unfair contract terms regime in the FTA.[8]

The review presents an opportunity to improve consumer protections and fairness for residents

42. The Act was developed over 20 years ago for a nascent industry. The retirement villages sector and what is considered best practice by operators has changed significantly since then.

43. The Government's review of the Act presents an opportunity to reconsider whether the balance is right between the financial rights and responsibilities of operators and residents, and improve consumer protections and fairness for current and future retirement village residents and their whānau.

What objectives are sought in relation to the policy problem?

44. The overarching objectives of the Retirement Villages Act review are to ensure:

- adequate consumer protections for 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, and

- the rights and responsibilities of residents and operators are appropriately defined, including where they may differ for different occupancy rights.

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[7] The former resident in this instance is effectively providing free bridging finance for the new resident's home.

[8] This is because such terms appear to cause a significant imbalance in power between the parties' rights and obligations or would potentially cause detriment (financial or otherwise) to a party if it were relied on.

What consultation has been undertaken?

Public consultation

45. The Ministry released a discussion document on options for changes to the Act in early August 2023. 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.

46. In terms of financial exit matters, stakeholder and public feedback was sought on proposed changes for:

- the repayment of residents' capital sums and/or requiring interest payments,
- stopping weekly fees,
- fixed deductions (also known as deferred management fees), and
- the treatment of capital gains and losses.

47. There was a very high level of support in submissions across residents, operators and other stakeholders for stopping weekly fees and fixed deductions accruing when a resident moves out, and only requiring residents to be liable for capital losses to the same extent they are entitled to capital gains.

48. The repayment of residents' capital sums was more contentious, and a key issue for operators, residents and many other submitters, with written comments received from over 900 submitters.

Further stakeholder engagement

49. The Ministry also engaged with key stakeholders, including the RVR, RVA, and the CTA, through a series of meetings on other options to incentivise or require earlier capital repayments that had arisen following public consultation.

50. The RVR have advocated for a 'four pillar' approach to the repayment of residents' capital sums, which involves:

- an initial payment – 10 percent of the refundable amount or $50,000 whichever is the greater within 5 days of notice to terminate or moving out of the premises,
- the balance of the refundable amount within four months from notice to terminate or three months from vacant possession, whichever comes later,
- an extension mechanism for operators to either pay partially or suspend payment where no lines of credit are achievable and repayment would cause undue financial hardship/insolvency, with compensatory interest payable, and
- an exemption for operators that share 50 percent or more of the capital gain.

51. The RVA and the CTA prefer a more targeted 'applications only' based approach over a fixed percentage payment on exit option. The RVA have raised concerns that some operators may not have sufficient capital reserves to meet an initial 10 percent

repayment requirement, while other operators may need to significantly raise costs to residents to compensate.

Agency consultation

52. Agency feedback primarily focused on the options of introducing a mandatory repayment timeframe and a potential initial repayment requirement.

53. The Retirement Commission's preference is for a 9 month mandatory repayment timeframe to be included in the package of legislative changes, alongside an initial 10 percent repayment requirement. The Retirement Commission considers this will improve consumer protections and provide certainty to residents on the maximum timeframe they will need to wait for the remainder of their capital sum to be repaid.

54. While the Office for Seniors sees a 9 month mandatory repayment timeframe an acceptable solution, it considers that the Ministry's preferred option (which includes an initial 10 percent repayment requirement) offers a viable and less costly alternative.

55. Whaikaha – Ministry of Disabled People support the Ministry's preferred option three to introduce an initial 10 percent repayment requirement for residents who move out of a village to live elsewhere. They note that there are practicality concerns in an application scheme-based approach in putting the onus on residents and whānau to be aware of, and apply for, early payments. This could be a particular barrier for older disabled people or disabled whānau who may find the application process inaccessible, or who may be dealing with additional stressors and processes already.

56. The Office for Rural Communities supports introducing maximum repayment timelines (e.g., six to nine months), automatic interest for delays, and monitoring/reporting of repayment times, highlighting rural equity implications. In relation to early repayment options, they also support automatic partial repayments (e.g., 10 percent), guidance for operators to process applications efficiently, and cost caps to reduce financial stress on rural residents.

Section two: Assessing options to address the policy problem

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

57. To deliver against the overarching policy objectives of the review, the Ministry has assessed all options against the following four equally weighted criteria:

- whether the option improves consumer protections and fairness for residents,
- whether it is proportional and cost effective in response to the perceived problem,
- the expected impact on the viability of the sector, including its ability to provide a range of retirement housing options and choice, and
- whether the option clearly defines the rights and responsibilities of residents and operators.

58. In considering different options, there are trade-offs that need to be made between improving consumer protections and fairness for residents and impacts on sector viability. The options assessment process aims to reach an effective balance between these competing objectives.

59. As part of considering proportionality and cost-effectiveness we have undertaken additional work on the potential costs and benefits of introducing maximum repayment timeframes focusing on potential impacts for new residents, using more up-to-date data on average unit values and relicensing timeframes[9] and stress testing for a wider range of potential scenarios.

60. To minimise the risk of unintended consequences, the Ministry has also considered whether potential changes are likely to impact the capacity of villages to continue to provide key services and amenities to its current residents, or impact future residents in terms of the range of retirement housing options and choices available to them.

What scope will options be considered within?

Priority issues and proposals with high levels of support are in-scope

61. In September 2024, Ministers agreed that the scope of the review should cover proposals from the 2023 discussion document that had high levels of support and priority issues for residents.

62. In terms of financial exit matters there was a high level of support in submissions across residents, operators and other stakeholders for:

- stopping weekly fees when a resident moves out,
- stopping fixed deductions accruing when a resident moves out, and
- residents only being liable for capital losses to the extent they are entitled to capital gains.

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[9] Data on average unit values was commissioned by the RVA from CBRE who provide registered property valuations of retirement villages. Relicensing timeframe data was commissioned by the RVA from independent research and strategy firm Primary Purpose Ltd.

63. Ministers also agreed that options for incentivising or requiring earlier capital repayments when residents move out of a village should be in scope of the review, as this was a key area of contention for residents in submissions.

Limiting the size of fixed deductions or requiring capital gains sharing is out-of-scope

64. The 2023 discussion document sought feedback on whether there should be any limitations placed on the size of fixed deductions after resident exit and, if so, what these limitations should be (e.g., no more than 30 percent of the capital sum).

65. Stakeholders had divergent views on this. While the RVR submitted that fixed deductions should be no higher than 30 percent to strengthen protections for residents, legal professionals, operators and the RVA raised concerns that this would reduce competition, restrict innovation and limit flexibility for operators to offer diverse models and choice to consumers. For example, lower capital payments with a higher percentage fixed deduction, where residents cannot afford the full capital sum.

66. Placing limits on the size of fixed deductions does not align with a key objective of the review – to maintain the sector's ability to provide a range of retirement housing options and consumer choice. Therefore it was ruled out-of-scope.

67. The White Paper also recommended a policy review to consider the allocation of any capital gain on sale between the resident (or their estate) and the operator. Only a very small proportion of operators offer capital gains-sharing in their ORAs, and residents have raised concerns about the impact this has on their finances.

68. However, retaining capital gain is a key component of most operators' current business models and helps to fund reinvestment in village facilities. Operators have noted that the upfront costs of buying into a retirement village unit would need to increase to offset changes to capital gains-sharing. This could significantly limit the proportion of older people who are able to access retirement village living.

69. Further investigation of this option was ruled out-of-scope because it does not align with two of the key objectives of the review: proportionality and cost-effectiveness, and expected impact on the viability of the sector.

What options are being considered?

70. For each of the four main issues identified in section one, the Ministry has:

- described the various options that have been considered,
- analysed the options against the criteria set out above, and
- outlined in more detail the expected costs, risks and benefits of the preferred option.

71. Options are 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

72. The Ministry has used its 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.

Issue One - Weekly fees

73. The Ministry has considered three options to address issues raised by residents and other stakeholders related to weekly fees continuing to be charged after a resident moves out:

Option one – Status quo

74. This option would maintain the status quo and make no changes to weekly fee requirements.

Option two – Stopping weekly fees shortly after exit

75. This option would require retirement villages to stop charging weekly fees to former residents no more than four weeks after an ORA has been terminated and the unit has been fully vacated.

76. The following exceptions would apply, on the basis that in these situations any delay in the resale cannot be attributed to the operator's decisions:

- circumstances where the resident is responsible for finding a new resident for the unit, and/or
- setting the price that the unit is marketed for.

Option three - Stopping weekly fees immediately after exit

77. This option would require retirement villages to stop charging weekly fees to former residents immediately after an ORA has been terminated and the unit has been fully vacated, with the exceptions noted above under option two.

How do the options compare to the status quo/counterfactual?

	Option one – Status quo	Option two – Stopping weekly fees shortly after exit	Option three – Stopping weekly fees immediately after exit
Improves consumer protections and fairness	0	+ This option improves fairness for exiting residents relative to the status quo by limiting the length of time after exit that former residents need to continue to pay weekly fees.	++ This option provides the greatest benefit to exiting residents by ensuring that they are not paying weekly fees for services they no longer receive.
Proportionality and cost effectiveness	0	+ The Ministry expects this option to be relatively low cost given many operators already stop charging weekly fees on exit.	+ While this option is slightly higher cost than option two, the Ministry considers this a proportionate response, bringing all operators in line with industry best practice.
Impact on the viability of the sector	0	0 While this option will have some cost implications for the estimated 16 percent of operators who continue to charge weekly fees after residents move out, the Ministry expects no impact on the viability of the sector overall.	0 As per option two, the Ministry expects no impact on the viability of the sector overall. However, foregone operator revenue may be passed on as a cost to existing or new residents.
Clearly defines rights and responsibilities	0	0 The Code already clearly defines operator responsibilities in relation to weekly fees, no change from status quo.	0 As per option two, no change from status quo.
Overall assessment	0	+ Option two would be an improvement over the status quo for exiting residents and would partially address resident concerns. However, it does not align with industry best practice and provides less benefits for residents than option three.	++ Option three codifies sector best practice, is supported widely by sector stakeholders and will improve consumer protections and fairness for exiting residents.

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

78. Option three – stopping weekly fees immediately after exit is the Ministry's preferred option. This option:

    a. aligns with sector best practice – the RVA has been encouraging their members to stop charging weekly fees on exit, and now estimates that 84 percent of operators have adopted this approach,

    b. has strong support across a range of stakeholders – 86.9 percent of submitters on the 2023 discussion document agreed with the proposal to stop weekly fees immediately or shortly after exit, and

    c. delivers the greatest benefits and improves fairness for exiting residents compared to the alternative options – ensuring they are not continuing to pay weekly fees for services they no longer receive.

79. For the small proportion of villages that currently continue to charge weekly fees after exit until the unit is sold, this proposal may result in foregone revenue being passed on as a cost to all residents through increased weekly fees, or as a cost to new residents through a higher fixed deduction on exit or a more expensive upfront capital sum for purchasing an ORA.

80. Assuming affected operators spread the cost across all units in their villages, the estimated average cost increase per unit per annum in 2028 would be $453 – $629.[10] If costs are passed on to new residents through a more expensive upfront capital sum for purchasing an ORA, the Ministry would expect an additional $3,986 – $5,534 to the purchase price of new ORAs in those villages.[11] **Annex A** provides more details on how estimated costs have been calculated.

81. However, the Ministry considers this potential outcome to be more equitable than the counterfactual, as it would spread costs across residents who are benefiting from the services and amenities that the village provides, rather than concentrating costs on former residents who have left the village and are no longer receiving any benefit from village services and amenities the weekly fee is charged for.

82. Compared to the counterfactual, this outcome provides greater certainty for residents regarding upfront costs. The costs of ongoing weekly fees after exit will differ significantly depending on the time taken by the village. Indicative costs range from $2,080 if the unit is relicensed after 3 months to $8,320 if the unit is relicensed after 12 months.

[10] Assuming an estimated 47,659 retirement village units in 2028 and estimated average weekly fees of $160 per week. The lower cost estimate assumes 12 percent turnover and uses 2021 'good year' relicensing data. The higher cost estimate assumes 15 percent turnover and uses 2023 'bad year' relicensing data.

[11] Assuming an average stay of 8 years in a unit and accounting for inflation based on the average increase in CPI per annum of 2.7 percent. Note, if costs are passed on through an increase in the upfront capital sum, following relicensing of the unit the resident will generally receive around 75 percent of their capital sum back.

83. In a worst case scenario, if a resident has moved to another retirement village, or has entered a care facility not associated with their original village, they could be paying two lots of weekly fees for a period of time.

84. The Ministry recommends the changes apply to residents entering ORAs from the date the legislative change takes effect, as the minority of operators who are not already stopping weekly fees on termination of an ORA will have some time before the new ORAs are terminated to plan for the change (most residents live in a village unit for around eight years).

85. For operators who currently continue to charge weekly fees after an ORA is terminated, a one-year implementation timeframe to comply with the rule for existing residents balances fairness with practicality, leaving time for operators to adjust their business practices to meet any foregone revenue.

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

86. Yes.

Issue Two – Fixed deductions

87. The Ministry has assessed four options in relation to concerns raised by residents and sector stakeholders about fixed deductions.

Option one – Status quo

88. This option would maintain the status quo and make no changes to fixed deduction requirements.

Option two – Requiring fixed deductions to stop accruing shortly after exit

89. This option would require fixed deductions to stop accruing no more than four weeks after an ORA has been terminated and the unit has been fully vacated.

90. The following exceptions would apply, on the basis that in these situations any delay in the resale cannot be attributed to the operator's decisions:

   a. circumstances where the resident is responsible for finding a new resident for the unit, and/or

   b. setting the price that the unit is marketed for.

Option three – Requiring fixed deductions to stop accruing immediately after exit

91. This option would require fixed deductions to stop accruing immediately after an ORA has been terminated and the unit has been fully vacated, with the exceptions noted above under option two.

Option four – Improving clarity on what fixed deductions will pay for

92. This option would require providers to outline in ORAs at a high level what fixed deductions charged to residents will pay for (e.g., maintenance, upgrades to village facilities).

How do the options compare to the status quo/counterfactual?

	Option one – Status quo	Option two – Requiring fixed deductions to stop accruing shortly after exit	Option three – Requiring fixed deductions to stop accruing immediately after exit	Option four – Improving clarity on what fixed deductions will pay for
Improves consumer protections and fairness	0	+ This option better aligns charges with beneficiaries, and partially addresses concerns raised by residents.	++ This option better aligns charges with beneficiaries, addresses resident concerns, and should be a fairer approach.	0 No expected impact relative to the status quo.
Proportionality and cost effectiveness	0	+ The Ministry expects this option to be relatively low cost given many operators already stop fixed deductions accruing after exit.	+ While this option is slightly higher cost than option two, the Ministry considers this a proportionate response, as it brings all operators in line with best practice.	+ Implementing this requirement should cause little additional work for operators, resulting in minimal to no cost.
Impact on the viability of the sector	0	0 While this option will have cost implications for some operators, the Ministry expects no wider impact on the viability of the sector overall.	0 No expected impact on the viability of the sector, as this option is already sector best practice. However, foregone revenue may be passed on as a cost to new residents.	0 No expected impact relative to the status quo.
Clearly defines rights and responsibilities	0	0 No expected impact relative to the status quo.	0 No expected impact relative to the status quo.	+ This option should improve transparency for residents.
Overall assessment	0	+ Option two would be an improvement over the status quo and would partially address resident concerns. But it is not aligned with industry best practice and provides less benefits for residents than option three.	++ Option three codifies sector best practice, is supported widely by sector stakeholders and will improve fairness by ensuring exiting residents are not being charged for services and amenities they are no longer benefiting from.	+ Option four presents a minor improvement to the status quo, to help ensure residents are more clearly aware of what any fixed deduction is being charged for.

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

93. Requiring fixed deductions to stop accruing immediately after exit (option three) and improving clarity in ORAs on what fixed deductions will pay for (option four) are the Ministry's preferred options. These changes are expected to improve consumer protections and transparency for residents in relation to this topic area.

94. While not all residents will benefit from option three, this proposal should provide reasonably significant benefits for residents who end up living in their unit for only a short period of time, such as ill health or changing personal circumstances.

95. Option three is more closely aligned with a beneficiary pays approach, ensuring that any fixed deduction charged only accrues while the resident is living in the village and benefitting from the services and amenities that the fixed deduction is paying for. The proposal also:

    a. received strong support during public consultation – 87.8 percent of submitters agreed with the proposal to stop fixed deductions from accruing further after a resident moves out, and

    b. is regarded as industry best practice – the RVA is supportive of this change.

96. While the Ministry does not have the necessary data to be able to accurately model the cost impacts of this proposal, the Ministry does not expect this proposal to have major cost implications that would impact overall sector viability. Most operators already stop fixed deductions from accruing after a resident's exit from the village.

97. However, this proposal may result in foregone operator revenue being passed on as a cost to new residents through a higher fixed deduction on exit or a slightly more expensive upfront capital sum for purchasing an ORA.

98. As this change addresses an unfair term and codifies best practice, the Ministry recommends it applies to all residents, including those who entered into ORAs prior to the commencement of the legislative change.

99. Option four is a minor change expected to increase transparency and reduce confusion for residents, by requiring operators to outline in their ORAs at a high level what fixed deductions are being charged for. Implementing this requirement should cause very little additional work for operators, resulting in minimal to no cost.

100. During public consultation, 77 percent of submitters supported greater transparency around fixed deductions. This change would only apply to ORAs entered into after the legislative change takes effect.

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

101. Yes.

Issue Three – Capital loss clauses

102. The Ministry has considered two options related to the issue of perceived unfair capital loss clauses in resident ORAs:

Option one – Status quo

103. This option would maintain the status quo and make no changes to requirements around capital loss clauses.

Option two – Limiting circumstances where residents can be liable for capital losses

104. This option would amend the legislation so that residents can only be held liable for a capital loss from the relicensing of their unit to the same extent as they would be entitled to any share of the capital gains. For example:

- if residents are not entitled to any share of a potential capital gain, they are not liable for any share of a potential capital loss,
- if residents are entitled to 100 percent of any potential capital gain, they can be liable for up to 100 percent of any potential capital loss, and
- if residents are entitled to 50 percent of any potential capital gain, they can be liable for up to 50 percent of any potential capital loss.

How do the options compare to the status quo/counterfactual?

	Option one – Status quo	Option two – Limiting circumstances where residents can be liable for capital losses
Improves consumer protections and fairness	0	+ This option fairly shares the risks of capital losses and potential benefits from capital gains between operators and residents.
Proportionality and cost effectiveness	0	+ Capital loss clauses have been very rarely used because capital losses are historically uncommon. The Ministry therefore expects this option to have very low associated costs.
Impact on the viability of the sector	0	0 As few operators have capital loss clauses in their ORAs, the proposal is unlikely to negatively impact the ongoing viability of the retirement village sector. However, some operators may increase costs to compensate for lost revenue.
Clearly defines rights and responsibilities	0	0 No expected impact relative to the status quo.
Overall assessment	0	++ Option two will improve consumer protections for some retirement village residents by removing capital loss clauses from their ORAs. This is expected to have no impact on overall sector viability, but any operator losses in expected revenue could be passed on to future residents through slightly higher charges.

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

105. Limiting circumstances where residents can be liable for capital losses (option two) is the Ministry's preferred option. This option fairly shares the risks of capital losses and potential benefits from capital gains between operators and residents.

106. Over 95 percent of submitters agreed with this proposal during consultation, and it is supported by both the RVA and the RVR.

107. While the Ministry does not have the necessary data to be able to precisely model cost impacts, the Ministry knows that very few operators still have these clauses in their ORAs. Also, because the Ministry expects capital losses to be relatively rare, this proposed change is expected to have no impact on the vast majority of operators. However, there is a residual risk that any operator losses in expected revenue could be passed on to future residents through slightly higher charges.

108. Because the rule codifies best practice and addresses an unfair term, the Ministry recommends it applies to all ORAs from the date the legislation takes effect.

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

109. Yes.

Issue Four – Incentivising or requiring earlier capital repayments

110. The Ministry has considered eight options for incentivising or requiring earlier capital repayments when residents move out of a village. These options are not mutually exclusive and could be packaged together in a variety of ways.

Option one – Status quo

111. This option would maintain the status quo and not introduce any changes to incentivise or require earlier capital repayments.

Option two – Introducing an application scheme for early repayment for specified needs

112. This option would introduce an application scheme for the early release of funds from the resident's net termination proceeds which would be paid by the operator following ORA termination where the applicant demonstrates funds are needed to:

- enable a former resident to move into or remain in aged residential care,
- meet a former resident's need to access more suitable alternative accommodation, or
- alleviate financial hardship for the former resident (this could also potentially apply to an estate beneficiary also).

113. In terms of how the application scheme would work in practice:

- eligible applicants would include the resident, the executor of their estate (in respect of hardship applications on behalf of estate beneficiaries), or a nominated representative ('the applicant'),

- the application would need to be made in writing to the village's statutory supervisor, or the village manager, if the village is exempt from having a statutory supervisor ('the decision maker'),
- the decision maker would direct the release of a monetary amount sufficient to meet the identified need, up to a maximum of the former resident's full net termination proceeds, and
- the decision maker would consider the application against the statutory criteria and respond to the applicant within 14 days of the application.

114. An exemption would apply where:

- the resident is responsible for finding a new resident for the unit and setting the price that the unit is marketed for – on the basis that in these situations any delay in the resale cannot be attributed to the operator's decisions,
- fifty percent or more of capital gains from the sale of the unit are shared with the outgoing resident or their estate – to help maintain diversity of choice for residents in the retirement village sector,
- the village is in receivership – as the receiver acts as an operator but will not be able to sell units, or
- the village has fewer than 50 total units – as there are concerns about their ability to access sufficient capital and either pass on or absorb additional costs.

115. Where an application is made for an early repayment to enable a resident to move into or remain in aged residential care, the decision maker would need to take into account the availability of the Ministry of Social Development's (MSD) residential care loan to meet the ongoing costs of aged residential care.

116. Where an application is made for early repayment on financial hardship grounds, the grounds would be met if the decision maker is satisfied that not releasing the funds would mean the applicant is unable to meet any of the following:

- reasonable living expenses,
- mortgage repayments on the principal family residence resulting in the mortgagee seeking to enforce the mortgage on the residence (if the scheme is extended to estate beneficiaries),
- the cost of modifying a residence to meet special needs arising from a disability,
- expenses related to a serious illness,
- the cost of medical treatment for an illness or injury, or
- the cost of palliative care.[12]

117. If the statutory criteria are met, the operator would only be able to decline an application in part or in full, or defer payment to the resident, if the amount requested

[12] Note, these criteria broadly align with hardship grounds for the release of KiwiSaver funds.

would cause the operator undue hardship, put the operator at risk of insolvency, or risk the continued provision of key services and amenities to village residents.

118. If an application is declined the applicant would be able to take a complaint through the retirement village disputes process.

Option three – Introducing an initial 10 percent repayment requirement (to former residents but not estate beneficiaries)

119. This option would introduce a requirement for operators to pay out 10 percent of the resident's net termination proceeds to a resident exiting the village to live elsewhere within 5 working days of the ORA termination date.

Option four – Introducing a mandatory repayment timeframe

120. Under this option, operators would be required to repay a former resident's net termination proceeds by the earlier of:

- the former resident's unit being relicensed, or
- a fixed period of time (e.g., 6, 9 or 12 months) after the unit has been fully vacated.

121. An operator would have a right to apply to the village's statutory supervisor for an extension of time beyond the maximum repayment timeframe of up to six months in circumstances where:

- complying with the maximum repayment timeframe would leave the operator in undue hardship, at risk of insolvency, or risk the continued provision of key services and amenities to village residents, or
- a force majeure event has impacted the operator's ability to comply (e.g., a major unforeseeable event such as a pandemic, severe influenza outbreak, natural disaster, or fire).

122. In addition, exceptions to the mandatory repayment timeframe requirements are proposed in circumstances where:

- the resident is responsible for finding a new resident for the unit and setting the price that the unit is marketed for,
- fifty percent or more capital gains from the sale of the unit are shared with the outgoing resident or their estate,
- the village is in receivership, or
- the village has less than 50 total units.

123. In terms of the length of time for requiring repayment of residents' capital sums, the Ministry has considered the potential impact of requiring repayment at 3 months, 6 months, 9 months and at 12 months.

Option five – Requiring interest payments after six months

124. Under this option, if a former resident's unit remains vacant after six months, the operator would be required to pay interest on the former resident's net termination proceeds (e.g., the amount the resident is due to receive net of all deductions under their ORA).

125. The interest calculation would apply from the ORA termination date until the date the net termination proceeds are ready to be released to the former resident or their estate.

126. The applicable interest rate would be determined by the Interest on Money Claims Act 2016[13] with:

    a. an additional 1 percent added to the applicable interest rate if the former resident's unit is not relicensed after 9 months, and

    b. an additional 2 percent added to the applicable interest rate if the former resident's unit is not relicensed after 12 months.

127. Any interest owing to the former resident would be paid as a single lump sum as part of the former resident's net termination proceeds, to minimise administrative complexity.

128. The following exceptions would apply, on the basis that in these situations any delay in the resale cannot be attributed to the operator's decisions:

    a. circumstances where the resident is responsible for finding a new resident for the unit, and/or

    b. setting the price that the unit is marketed for.

Option six – Amending reporting requirements

129. This option would replace the current reporting requirements relating to the sale of a vacant residential unit under section 51 subsections 5 - 7 of the Code with a single simplified requirement for operators.

130. The operator would be required to provide monthly written reports to the former resident (or their estate) from the ORA termination date until the unit is relicensed on the steps taken to refurbish and market the unit, and the progress made towards finding a new resident.

131. This would mean that, compared to the status quo, monthly reports would start straight away once a resident has vacated their unit and would cover progress on refurbishment before the unit is placed on the market.

Option seven – Bringing forward timeframes for valuation requirements

132. This option would bring forward by two months the date the operator must obtain a registered valuation of the unit to establish a suitable price at which to market the unit.

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[13] This rate is based on an average of the six most recent observations of the six-month term deposit rate published by the Reserve Bank of New Zealand plus a premium of 0.15 percent.

Option eight – Enabling earlier access to the disputes regime

133. This option would remove the current time restriction on former residents giving a dispute notice relating to the relicensing or disposal of the unit formerly occupied by the resident (currently nine months after the unit becomes available for relicensing or disposal).

Assessment of options for requiring earlier capital repayments

Note: As the Ministry has considered a large number of options (and sub-options), options assessment has been split across two tables. This table evaluates options to <u>require</u> earlier capital repayments.

	Option one: Status quo	Option two: Introducing an application scheme for early repayment for specified needs	Option three: Introducing an initial 10 percent repayment requirement	Option four(a): Introducing a mandatory repayment timeframe of 3 months or less	Option four(b): Introducing a mandatory repayment timeframe of 6 months	Option four(c): Introducing a mandatory repayment timeframe of 9 months	Option four(d): Introducing a mandatory repayment timeframe of 12 months
Improves consumer protections and fairness	0	+ This option would reduce some financial stress experienced by residents from long wait times for capital repayments. But making an application can be onerous for residents when they are often vulnerable.	++ This option would provide funds to residents shortly after exiting to help address immediate financial needs. This improves consumer protections and fairness in terms of bringing forward a 10 percent payment of the resident's owed funds.	++ This was the preferred option of residents during consultation. It provides certainty for all residents and would improve capital repayment timeframes for most residents. This option would provide residents with the highest financial and certainty benefits.	++ This option provides certainty for all residents and is expected to provide financial benefits to between a quarter to half of exiting residents, (depending on market conditions) by bringing forward the date they receive their capital sum repayment.	++ This option provides certainty for all residents and financial benefits for between 9 –20 percent of exiting residents (depending on market conditions).	+ This option provides certainty for all residents and financial benefits to between 5 –10 percent of exiting residents (depending on market conditions).
Proportionality and cost effectiveness	0	+ While precise costs cannot be modelled due to data limitations, the Ministry expects overall costs to be relatively low as the scheme is focused on meeting specific needs. Some former residents will be able to access the MSD Aged Residential Care Loan. Operators already support residents to access aged residential care on an ad hoc basis.	+ The Ministry considers the likely costs to be proportional to the benefits provided. The Ministry estimates a new resident in 2029 could end up paying between $2,322 – $6,062 through an increased capital sum or fixed deduction. In return, it would bring forward a payment of around $61,000 on exit from a village.	- - This option is expected to indicatively cost between $7,126 and $13,362 per unit per annum. These high costs are likely to be passed on where possible to residents and are disproportionate to the benefits.	- - While this option is lower cost than option four (a), there are still significant cost implications for operators, indicatively costing between $3,600 – $6,750 per unit per annum. These high costs are likely to be passed on to residents where possible.	- The estimated opportunity cost to operators from introducing a 9 month mandatory repayment timeframe is estimated at between $1,469 - $2,755 per unit per annum. The Ministry expects that 9 - 20 percent (around 495 – 1,374) exiting residents per annum would receive direct financial benefits.	- The estimated opportunity cost to operators from introducing a 12 month mandatory repayment timeframe is estimated at between $735 and $1,378 per unit per annum. While this is lower cost than the other options, the Ministry expects that only 5-10 percent (around 275 – 687) of exiting residents per annum would see any direct financial benefits.
Impact on the viability of the sector	0	0 No expected impact relative to the status quo. Specific exemptions and the ability for an application to be declined if it would place the village in undue hardship mitigates the risk of villages facing financial difficulties.	0 No expected impact relative to the status quo. Specified exemptions would ensure village viability and the proposed transition period would give operators time to adjust business practices, as necessary.	- - This option raises real risks to the viability of the sector. Some less well-capitalised villages could fail. The Ministry would expect a slow-down in new development, which may have wider impacts on future supply/affordability and aged care bed availability.	- - This option is lower risk than option four(a), but may still have significant implications for the viability of the sector and the ongoing availability and supply of retirement village living options for older New Zealanders.	- This option is lower risk than options four (a) and (b), due to reduced cost implications. However, there could still be potential negative impacts on current residents, and this option still raises risks to the future supply and choice of retirement village living options.	- A 12 month repayment timeframe has a lower risk of impacts on the viability of the sector compared to options four(a), (b) and (c). However, some residual risk remains.
Clearly defines rights and responsibilities	0	+ This option would provide clear criteria for when early repayments should be made.	0 No expected impact relative to the status quo.	0 No expected impact relative to the status quo.	0 No expected impact relative to the status quo.	0 No expected impact relative to the status quo.	0 No expected impact relative to the status quo.
Overall assessment	0	+ This option is an improvement over the status quo, providing an avenue for early repayments to be considered on a case-by-case basis where there is a specific identified need.	++ This option would reduce some of the immediate financial stress experienced by residents when moving out of their unit by providing some funds straight away. Compared to option two, it would also remove the burden of an application process.	- - This option would have considerable cost implications for operators and would likely raise risks to the financial viability of some villages. This would have flow-on implications for current and future retirement village residents.	- - Despite being cheaper than option four(a), this option would still have considerable cost implications for operators, with flow-on implications for current and future retirement village residents. These costs would likely outweigh the benefits.	0 While the Ministry considers this option feasible to implement, direct financial benefits would accrue to less than 20 percent of exiting residents in any given year. However, it would have certainty benefits for all residents. The direct financial benefits are low compared with the likely costs.	- While this option has lower risks and associated costs than options four (a), (b) and (c), the Ministry expects only a very small number of individuals would receive any direct financial benefits. This limits the value of this intervention.

Assessment of options for incentivising earlier capital repayments

Note: As the Ministry has considered a large number of options (and sub-options), options assessment has been split across two tables. This table evaluates options to incentivise earlier capital repayments.

	Option 1: Status quo	Option five: Requiring interest payments after six months	Option six: Amending reporting requirements	Option seven: Bringing forward timeframes for valuation requirements	Option eight: Enabling earlier access to the disputes regime
Improves consumer protections and fairness	0	++ This option is expected to provide financial benefits to between a quarter to a third of exiting residents (depending on market conditions) through interest payments if their capital sum has still not been repaid six months after exit.	+ By amending monthly reporting requirements to start straight away after exit, former residents should have better visibility of progress made towards re-licensing their unit.	+ By bringing forward valuation timeframes this option may help ensure that properties taking longer than four months to sell are not being marketed at an unrealistic price.	+ This option improves access to dispute resolution services for residents who may be experiencing long wait times to receive their capital sum repayment.
Proportionality and cost effectiveness	0	+ This option is expected to be relatively low cost for operators, indicatively costing between $128-$325 per unit per annum for operators that currently pay interest after 9 months, and between $215 –$576 per unit per annum for operators that do not currently pay any interest in the first year following introduction.	+ This option is expected to have no direct cost implications for operators but may result in staff spending slightly more time on reporting.	- This option is expected to indicatively cost between $16 and $43 per unit per annum in the first year following introduction. However, there is no guarantee that residents see any direct benefits in terms of faster relicensing timeframes.	+ This option may have some associated cost implications from more residents accessing the disputes scheme, however overall cost impacts are expected to be minimal.
Impact on the viability of the sector	0	0 No expected impact on the viability of the sector overall. However, operators may pass on costs to residents to account for interest payments.	0 No expected impact on the viability of the sector.	0 No expected impact on overall viability of the sector as the expected cost impact is limited. However, some operators may increase costs slightly to compensate for lost revenue.	0 No expected impact on overall viability of the sector as the expected cost impact is minimal.
Clearly defines rights and responsibilities	0	0 No expected impact relative to the status quo.	+ Current reporting requirements are included in multiple sections of the Code. This proposal should more clearly articulate reporting requirements.	0 No expected impact relative to the status quo.	0 No expected impact relative to the status quo.
Overall assessment	0	++ Option five improves fairness for former residents by compensating former residents for not having the use of their capital within a reasonable time period. It also provides an additional financial incentive for operators to quickly relicense vacant units. However, this comes with an associated financial cost for operators which may be passed on as an additional cost to residents.	+ Option six is expected to increase visibility for residents of progress made by operators towards relicensing their units. This is a minor improvement to the status quo, with no direct cost implications.	0 Option seven may help ensure that properties taking longer than four months to sell are not being marketed at an unrealistic price. However, as there is no guarantee that residents see any direct benefits in terms of faster relicensing timeframes this option may not be a cost effective solution to the identified issue.	+ Option eight is a minor improvement that primarily improves access to justice, enabling residents to have disputes heard earlier in instances where operator poor practice may be leading to long wait times for their capital sum repayment. Expected cost impacts are minimal.

What options are likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

134. The Ministry recommended a combination of the following options:

a. option three - introducing an initial 10 percent repayment requirement for residents who move out of a village to live elsewhere to help address immediate financial needs,

b. option two – an application scheme for:

   i. residents who need further funds ahead of the remainder of their net termination proceeds being repaid, and

   ii. residents' estate beneficiaries who need funds to alleviate financial hardship ahead of the net termination proceeds being repaid,

c. option five – requiring interest payments on residents' outstanding funds after six months of the unit being vacated to compensate former residents for not having the use of their capital within a reasonable time period and to incentivise earlier repayment timeframes,

d. option six – amending monthly reporting requirements to start straight away after exit to increase visibility for residents of progress made by operators towards relicensing their units, and

e. option eight – enabling earlier access to the disputes regime so former residents or their estates can seek to raise and resolve issues related to relicensing more quickly.

The Ministry recommends an initial 10 percent repayment requirement for residents who move out of a village to live elsewhere would address immediate needs (option three)

135. Requiring 10 percent of a resident's net termination proceeds to be paid out within five working days of the ORA termination date would help to reduce some of the immediate financial stress experienced by residents when moving out of their unit to live elsewhere.

136. A new resident purchasing an average value retirement village unit in 2029 could expect to receive back around $61,000 shortly after exit from their net termination proceeds if the requirement for a 10 percent partial early repayment was introduced.[14]

137. This would be sufficient in most cases to address pressing needs, such as moving costs, and aged residential care or alternative accommodation costs. For example, this would provide sufficient funds for around nine months of aged care costs for a standard

[14] Assuming an average value of retirement village units in 2029 (the first year of implementation) of $816,297 and a fixed deduction from the resident's capital sum of 25 percent.

room in Auckland,[15] or just under two years of average weekly rental costs for a resident moving back into the wider community.[16]

138. This is also expected to reduce emotional stress, because the resident would have clarity and certainty around the 10 percent partial early repayment and when they would receive it. Most exit provisions are activated when a resident passes away or moves into aged residential care. Navigating the exit process can be very stressful for residents and their whānau because they are either mourning the death of a close family member or trying to manage the process of moving a parent with age-related physical and cognitive decline into aged residential care.

A number of key stakeholders support this approach

139. The strong preference of the RVR, the Retirement Commission and the Office of the Aged Care Commissioner is for repayments to be made to former residents without requiring an application process in the first instance, while the RVA would prefer a more targeted, application-based approach to address hardship.

140. There are concerns about the practicality of putting the onus on residents or their whānau to be aware of, and apply for, an early payment from their owed funds in the first instance. An application process is intrusive because it requires the disclosure of personal information. It also adds a burden to residents and their whānau at what is typically a very challenging and stressful time, often when residents are at their most vulnerable, as their health has deteriorated or their partner has passed away. In addition, it creates uncertainty because an application could be declined.

The associated costs of an initial 10 percent repayment requirement are expected to be proportionate and manageable

141. Limiting the requirement to living former residents is expected to address the main concerns raised while helping to keep costs and risks manageable. While the Ministry does not have available data on the number of retirement village exits due to a deceased estate in New Zealand, Australian data indicates that 50 –64 percent of exits are due to a deceased estate,[17] significantly reducing overall costs to operators.

142. Indicative modelling shows that the sector would collectively need to hold, or have access to, working capital of between $121 million – $210 million for a 10 percent fixed percentage partial early repayment on exit. This has an associated opportunity cost of between $12 million – $32 million per annum for the sector,[18] which works out to a cost of between $264 – $689 per unit per annum.

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[15] Based on the current maximum weekly contribution rate for a standard room in Auckland of $1,511.09 set by the Ministry of Health.

[16] Based on an average weekly rent in Auckland as of April 2025 of $633 per week.

[17] Independent review of timeframes for exit payments in Queensland retirement villages, November 2020. https://www.housing.qld.gov.au/__data/assets/pdf_file/0016/20455/retirement-villages-exit-payment-review-report.pdf page 23.

[18] Assuming 36 – 50 percent of exits are for living residents (as opposed to deceased estates), average turnover of 12-15 percent per annum, and a weighted average cost of capital of 10 – 15 percent.

143. If all costs are passed on to new residents through a more expensive upfront capital sum for purchasing an ORA, or through a higher fixed deduction on exit, around $2,322 – $6,062 could be added to the purchase price of new ORAs or to the fixed deduction from 2029.[19] The Ministry considers increased costs would be offset by the meaningful benefits to residents of receiving 10 percent of their capital sum repayment shortly after exit.

144. Note, **Annex B** provides more detail on how the costs and benefits of this proposal were estimated.

Specific exemptions and a transition period would ensure fairness and further mitigate risks

145. To mitigate the risk of villages facing financial difficulties due to insufficient capital reserves and potential negative consequences for current residents, and to address fairness, the Ministry proposed exemptions apply to the initial 10 percent repayment requirement where:

   a. the resident is responsible for finding a new resident for the unit and setting the price that the unit is marketed for – on the basis that in these situations any delay in the resale cannot be attributed to the operator's decisions,

   b. 50 percent or more capital gains from the sale of the unit are shared with the outgoing resident or their estate – to help maintain diversity of choice for residents in the retirement village sector,

   c. the village is in receivership – as the receiver acts as an operator but will not be able to sell units, or

   d. the village has less than 50 total units – as there are concerns about their ability to access sufficient capital and either pass on or absorb additional costs.

146. Based on 2022 data provided by the RVA, there are 167 RVA member villages with fewer than 50 units, totalling 3,728 units. This represents around 10 percent of total units. Generally, newer villages constructed in recent years are larger.

147. An exemption for villages with less than 50 units should help to ensure these villages have continued capacity to provide key services and amenities to current residents, and would reduce the risk of operator failures and reduced choice for future residents.

148. Note, some well-capitalised village operators with less than 50 units may choose to voluntarily provide early repayments in order to ensure their offerings are attractive relative to other villages.

149. The Ministry has also considered whether not-for-profit retirement villages should also be exempt from the proposed repayment requirements, but considers there is insufficient evidence at this stage on the need for an exemption.

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[19] Assuming an average stay of 8 years in a unit and accounting for inflation based on the average increase in CPI per annum of 2.7 percent.

150. The CTA has noted that if there was to be a liquidity event, a not-for-profit operator will likely not be able to seek additional capital from shareholders like a for-profit provider would.

151. However, the Ministry expects most not-for-profit operators that would struggle to meet repayment requirements would qualify as an exempt small operator, while larger not-for-profits would have time to build their capital reserves and already have an advantage over for-profit competitors due to their tax-exempt status. Whether all not-for-profit operators should have an exemption could be considered further at the select committee stage.

152. A one-year transition period is also proposed to allow time for operators to adjust business practices and build up their capital reserves. This should help to reduce risks of financial stress for village operators.

The Ministry considers the initial 10 percent repayment requirement (option three) should be introduced alongside an application scheme for additional funds where this is needed (option two)

153. In some circumstances, an initial 10 percent repayment will not be sufficient to meet the needs of an exiting resident, or the payment will be exhausted before the resident has received the remainder of their net termination proceeds if it is taking a long time to relicense a unit.

154. Estate beneficiaries may also face financial hardship. For example, a recent case was brought to the Ministry's attention where an estate beneficiary was facing a mortgagee sale of their home, which could have been halted if the capital sum repayment was made earlier.

155. The Ministry has recommended that an application scheme be put in place where applications can be made to a decision-maker for the release of funds on a case-by-case basis in circumstances where funds are required to:

   a. enable a resident to move into or remain in aged residential care,

   b. alleviate financial hardship of the former resident or their estate beneficiaries, or

   c. meet a resident's need to access more suitable alternative accommodation.

156. This targets the most acute needs for further funds for residents and their whānau. The Ministry anticipates that most applications would be made for a portion of the capital repayment sum, for example, to meet ongoing weekly aged residential care or rental costs. However, applicants could also apply for an amount up to the total net termination proceeds owed (i.e., their capital sum minus a fixed deduction) depending on their circumstances and the amount required to meet the identified need.

157. The Ministry considers a village's statutory supervisor is well-placed to be the decision-maker for applications, given their independence from day-to-day village operations. The statutory supervisor would consider the application against the statutory criteria and respond to the applicant within 14 days of the application. The Ministry does not expect this would significantly increase their duties.

158. If an application is declined, the applicant would be able to take a complaint through the disputes process. This will ensure there is an appropriate avenue available for the decision to be reviewed.

The Ministry expects overall costs of the application scheme to be relatively low and considers risks can be managed

159. Because it is difficult to predict how many applications would be made that meet the criteria or the average amount requested, the Ministry cannot model the costs to operators. However, the Ministry expects overall costs to be relatively low as the scheme is focused on meeting specific needs.

160. Many retirement village residents who need to transfer to aged residential care will be eligible for MSD's residential care loan, limiting potential costs to operators. Applications on financial hardship grounds are also expected to be used relatively infrequently.

161. The financial hardship criteria broadly align with hardship grounds for the release of KiwiSaver funds. While KiwiSaver hardship withdrawal applicants have different demographics and needs for retirement village residents, it is worth noting that hardship withdrawals per annum are made by less than one percent of total KiwiSaver members.

162. The Ministry also expects the number of exits per annum to be low due to the need to move to more suitable alternative accommodation.[20] The focus on 'need' rather than simply a 'desire' to move aims to restrict additional payouts to a manageable level. The Ministry considers that a need to move would cover circumstances such as:

a. where the resident is very unhappy living in the village to the extent that it is affecting their physical and mental health, or

b. where a resident's partner has had to transfer to aged residential care in another village due to a lack of onsite care facilities or an available room.

163. In addition, the Ministry has recommended that the decision-maker be able to decline an application for additional funds in part or in full, or defer payment, if it would place the village in undue hardship, at risk of insolvency, or if it would risk the continued provision of key services and amenities to village residents. This helps to mitigate the risk of villages facing financial difficulties due to insufficient capital reserves and potential negative consequences for current residents.

164. The Ministry has also recommended specific exemptions (e.g., for small villages with less than 50 total units) and that an appropriate transition period is put in place to minimise risks.

The Ministry recommends requiring interest payments after six months (option five) to compensate residents for long wait times and incentivise earlier repayment timeframes

165. Requiring operators to pay interest to former residents on their capital sums if a unit has not been relicensed within a fixed period of time would improve fairness for former residents by compensating them for not having the use of their capital sum. Increasing

[20] Data from Queensland, Australia indicates that only 6 – 10 percent of residents exit their retirement village unit to live elsewhere each year.

Please note in paragraph 167, the RVA have asked to clarify that this position was based on there being no mandatory buy-back (repayment).

the applicable interest rate over time would also act as an additional financial incentive mechanism for operators to quickly relicense vacant units.

166. As part of its Blueprint the RVA promoted operators paying interest on capital sums if a unit is still vacant after nine months. In submissions most operators supported this approach.

167. However, the Ministry considers bringing forward interest payment timeframes to six months provides additional financial benefits to more residents at relatively low cost to operators. The RVA have also shifted their position on interest repayment timeframes somewhat and suggested at the Round Table meeting in January 2025 that interest payments after six months would be suitable to implement.

168. The Ministry has recommended setting the interest rate based on the Interest on Money Claims Act 2016, as it is used in other sectors (e.g., when calculating civil debt interest), and would provide certainty to the sector as to how interest will be calculated. To provide an additional financial incentive for operators to quickly relicense vacant units and ensure better compensation to residents waiting a long time for their capital sum repayment, the Ministry also recommended stepped increases in the applicable interest rate after 9 and 12 months.

169. For new residents in the first year following introduction, the Ministry would expect indicative interest payments when they exit to range from $4,458 – $7,048, for a unit sold at 9 months (i.e., 3 months of interest on the capital sum), to $10,330 – $15,509 in interest payments, for a unit sold at 12 months (i.e., 6 months of interest on the capital sum).[21]

170. A number of operators already pay interest six months after exit if the unit has not been relicensed. This includes Arvida, Bupa, Oceania and Ryman, which collectively own around 40 percent of all units.

171. Affected operators are likely to pass on the cost of the additional interest payments where possible. Illustrative potential costs in 2027, and how this may impact the capital sum or fixed deduction of new residents if all costs are passed on are set out in the table below. **Annex C** provides more detail on how interest costs have been calculated.

[21] Assuming an average unit value of $754,712 per unit in 2027 and 25 percent fixed deduction on exit. Lower cost estimate assumes interest rate of 3.15 percent. Higher cost estimate assumes interest rate of 4.98 percent.

Current status	Interest cost per annum for the sector[22]	Interest cost per unit per annum	Potential increase in capital sum or fixed deduction[23]
Operator currently pays interest after 9 months	$1.571 - $4.991m	$123 - $391	$1,083 - $3,440
Operator does not currently pay interest	$3.124 - $9.943m	$245 - $779	$2,153 - $6,854

172. Given that many operators already provide interest to residents after either six or nine months, the Ministry considers this proposal to be relatively low risk.

173. The Minister's preferred option for interest payments differs slightly from the Ministry's, in that interest payments would not have stepped increases in the applicable interest rate after 9 months, and as a result of introducing also introducing a maximum mandatory repayment timeframe of 12 months there would be no need for further interest payments after this date. These shifts bring down the likely interest costs for operators. Indicative costs are outlined in the table below.

Current status	Interest cost per annum for the sector	Interest cost per unit per annum	Potential increase in capital sum or fixed deduction per unit
Operator currently pays interest after 9 months	$956k - $2.967m	$75 - $233	$659 - $2,046
Operator does not currently pay interest	$1.502 - $4.317m	$118 - $338	$1,035 - $2,976

174. However, expected benefits would also be slightly lower. For new residents in the first year following introduction, indicative interest payments at the time they move out would be expected to range from $4,458 – $7,047 for a unit sold at 9 months to $8,915 – $14,094 for a unit sold at 12 months.

[22] Lower cost estimate assumes interest rate of 3.15 percent, 12 percent turnover and uses 2021 'good year' relicensing data. Higher cost estimate assumes interest rate of 4.98 percent, 15 percent turnover, and uses 2023 'bad year' relicensing data.

[23] Assuming an average stay of 8 years in a unit and accounting for inflation based on the average increase in CPI per annum of 2.7 percent. Note, if costs are passed on through an increase in the upfront capital sum, following relicensing of the unit the resident will generally receive around 75 percent of their capital sum back.

Introducing enhanced reporting requirements (option six) is expected to improve resident visibility of progress being made towards relicensing their unit

175. To improve transparency over refurbishment, marketing and relicensing, the Ministry has recommended enhancing the reporting requirements through requiring written monthly reports after one month (instead of starting after three months) and requiring reports to also cover progress towards refurbishment.

176. This is a relatively minor change that the Ministry expects will give residents better visibility of progress made to relicense their unit. Overall cost impacts resulting from this proposal are expected to be minimal.

Enabling earlier access to dispute resolution services (option eight) will also help in circumstances where operators are not meeting their obligations

177. The Ministry recommended removing the time restriction on former residents giving a dispute notice relating to the relicensing or disposal of the unit formerly occupied by the resident (currently nine months after the unit becomes available for relicensing or disposal).

178. The Ministry does not consider there should be a time limitation around relicensing disputes. Removing this time restriction will provide residents with an opportunity to escalate concerns earlier where operators are not meeting current reporting or valuation requirements or are otherwise not taking all reasonable steps to enter into a new ORA in a timely manner. This is expected to help exiting residents or their estate beneficiaries resolve issues related to relicensing more quickly.

179. While this option may have some associated cost implications from more residents potentially accessing the dispute resolution services, overall cost impacts are expected to be minimal.

Residents have advocated strongly for introducing a mandatory repayment timeframe

180. In submissions on the discussion document, residents strongly favoured introducing a maximum capital repayment timeframe with a shorter period than the 6 or 12 months proposed. A large majority of residents who responded preferred a 28-day repayment timeframe (advocated at the time by the RVR).

181. More recently, the RVR proposed a “four pillar” approach (drawing on discussion at the stakeholder Round Table meeting on 30 January 2025) as a balanced solution to address the issues associated with long repayment timeframes. The RVR approach includes:

    a. an initial 10 percent repayment to residents on exit/termination (the greater of 10 percent of their capital sum owed or $50,000),

    b. the balance of funds owed within four months from notice to terminate or three months from vacant possession (whichever comes later), and

    c. extensions and exemptions for operators in specified circumstances (to address fairness or insolvency risk).

182. Setting a mandatory repayment timeframe in legislation would bring forward the date some former residents receive their capital sum repayments. This would provide tangible financial benefits, certainty about the maximum repayment timeframe for all residents, and reduce financial hardship experienced by some residents when exiting their retirement village.

183. Mandatory repayment timeframes could also result in some operators lowering their asking price on a vacated unit, or making their terms more favourable if they are getting close to a mandatory repayment timeframe and have not sold the unit yet. However, these potential benefits need to be considered against the associated costs and risks.

Changes to the rules around a resident's financial exit from a retirement village would affect banks' credit assessments of operators

184. A mandatory repayment timeframe (of any length) would require lenders to assess whether an operator can absorb the cost of mandatory repayment timeframes. Based on this assessment, lenders may require more security from operators or for operators to put in more equity to lessen the lender's exposure to risk.

185. Operators are likely to either require a stand-by working capital facility from the bank or the operator would retain higher levels of equity/capital in the business to meet the costs of mandatory repayment timeframes.

186. The RVA and CTA have raised concerns that mandatory repayments could significantly increase the risk of villages getting into financial difficulty. If a mandatory repayment timeframe were introduced operators would need to have enough capital reserves to weather a market downturn or other adverse event to the satisfaction of the statutory supervisors and their lenders.

187. The extent to which a mandatory repayment timeframe is likely to affect operators' financial viability would depend on the detailed design of the rules, specifically the length of the repayment timeframe and the design of any exemptions or grounds for extensions of time.

The Ministry considers introducing a three month repayment timeframe (option four (a)) or a six month repayment timeframe (option four (b)) is not feasible

188. The below table sets out approximate future costs for operators of three- and six-month repayment timeframes and the effects on the upfront capital sum or fixed deduction charged per unit for new residents in 2029. This modelling assumes operators hold sufficient capital to weather a market downturn and that all additional costs to operators are passed on to residents.

Length of maximum repayment timeframe	Indicative capital adequacy requirement for the sector[24]	Indicative opportunity cost per annum for the sector[25]	Indicative cost per unit per annum	Potential increase in the upfront capital sum or fixed deduction per unit[26]
3 months	$3,265 – $4,081m	$326 - $612m	$7,126 – $13,362	$62,699 – $117,560
6 months	$1,649 - $2,061m	$165 - $309m	$3,600 – 6,750	$31,672 – $59,386

189. The above costs are indicative, and it is unlikely that operators would pass all increased costs onto residents, as retirement village unit prices are generally influenced by and correlated with the wider housing market. Nevertheless, the modelling demonstrates that a three- or six-month maximum repayment timeframe would result in considerable cost implications for operators.[27]

190. Note, **Annex D** provides more detail on indicative costs and benefits of introducing a mandatory repayment timeframe of 3, 6, 9 or 12 months.

191. The Ministry considers three- and six-month maximum repayment timeframes would raise risks to the financial viability of some villages. It may not be possible for all operators to arrange sufficient access to capital and either absorb or pass on additional costs to future residents. The Ministry expects the risks to be greatest for small and older independent villages that are less well capitalised and have less ability to spread risk.

192. Village failures have previously occurred in New Zealand in circumstances where operators offered ORAs to residents that had guaranteed repayment timeframes of

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[24] Assuming an average value of retirement village units in 2029 (the first year of implementation) of $816,297 and a fixed deduction from the resident's capital sum of 25 percent. Lower cost estimate assumes 10 percent turnover and uses 2021 'good year' relicensing data. Higher cost estimate assumes 15 percent turnover and uses 2023 'bad year' relicensing data plus a capital adequacy buffer.

[25] Assuming a weighted average cost of capital of 10 –15 percent.

[26] Assuming an average stay of 8 years in a unit and accounting for inflation based on the average increase in CPI per annum of 2.7 percent. Note, if costs are passed on through an increase in the upfront capital sum, following relicensing of the unit the resident will generally receive around 75 percent of their capital sum back.

[27] Note, the RVR completed its own analysis of costs following the release of the Ministry's cost benefit analysis in 2023, which indicated a relatively affordable cost of $13,535 per unit for 28 day repayments. However, the Ministry considers these costs were significantly understated, including because operators would likely need to hold sufficient capital to mitigate the risk of village failure during a market downturn.

three months. This includes Abbeyfield Whangarei in 2010 and United Life Care and the Peninsula Club in the 1980s.

193. While most Australian states have now introduced mandatory repayment timeframes for retirement villages of varying lengths between 6-18 months, there are important contextual differences to note between the situation in Australia and New Zealand. See **Annex E** for more detail.

194. Retaining sufficient capital to meet maximum repayment timeframe requirements means operators would forego the opportunity cost of the utilisation of that capital. Increased costs for operators would also result in flow on effects for residents.

195. Where operators cannot secure sufficient capital through a bank loan facility or increasing capital reserves over time to meet the increased costs of a maximum repayment timeframe, some may be compelled to reduce their services and levels of village maintenance. A reduction in amenities would impact negatively on the enjoyment and living standards of current residents. There is then a risk that the overall desirability and diversity of retirement villages is diminished for future residents.

196. A reduced forward development pipeline would also have downstream effects on wider housing supply, choice, and affordability for older people. The Ministry could see limited availability of retirement village living options in some areas of New Zealand. This could also have implications for the availability of aged residential care beds, as retirement village operators are a major provider of aged care facilities.

However, a nine month timeframe (option four (c)) or a 12 month timeframe (option four (d)) would be feasible if risks are managed through extensions, exemptions and a transition period

197. A longer maximum repayment timeframe would significantly reduce how much capital operators would need to hold or arrange access to, assuming effective criteria for extensions and exemptions are put in place to manage specific risks. The Ministry estimates capital adequacy requirements for the entire sector would fall to around $673 – $841 million for a nine-month repayment option (from over $3 billion for a three-month timeframe). See the below table outlining indicative costs.

Length of mandatory repayment timeframe	Indicative capital adequacy requirement for the sector	Indicative opportunity cost per annum for the sector	Indicative cost per unit per annum	Potential increase in the upfront capital sum or fixed deduction per unit
9 months	$673 – $841m	$67 – $126m	$1,469 – $2,755	$12,928 – $24,239
12 months	$337 – $421m	$34 – $63m	$735 – $1,378	$6,466 – $12,120

198. If a nine-month repayment timeframe was to be put in place, the Ministry considers there would need to be a supplementary statutory right for an operator to seek an extension of time in circumstances where:

a. they have been impacted by a force majeure event, or

b. complying would leave the operator in undue hardship, at risk of insolvency, or risk the continued provision of key services and amenities to village residents.

199. Effectively managing the transition would also be important. The Ministry considers a one year transition period for changes to apply to new ORAs is needed to allow operators time to adjust their business models and build up capital reserves.

While all residents would have certainty, only a minority of residents would benefit financially

200. The improved certainty of a maximum repayment timeframe provides significant psychological benefits for residents: knowing the maximum time they or their family will have to wait before being repaid their capital sum would reduce stress and provide comfort to residents and their whānau while navigating a typically difficult time, emotionally and financially.

201. However, as payment timeframes are extended (to reduce the risk of village failure) the direct financial benefits to residents significantly reduce, as the vast majority of units are relicensed within nine months.

202. Assuming operators pass on all increased costs, the Ministry estimates a new resident in the first year following legislation being passed could end up paying between $12,928 – $24,239 through an increased capital sum or fixed deduction on exit under a nine-month repayment option. This is in exchange for a 9 – 20 percent chance (depending on market conditions) of an extra $4,592 – $29,285 in additional financial return from receiving their capital sum repayment earlier than they otherwise would have. The Ministry estimates between 495 – 1,374 unit owners would receive a direct financial benefit per year compared to the status quo.

203. For the 12 month option, a new resident could end up paying between $6,466 – $12,120 in an increased capital sum or fixed deduction on exit in exchange for a 5 –10% chance of an extra $6,122 – $16,734 in additional financial return. The Ministry estimates between 275 – 687 unit owners would receive a direct financial benefit per year compared to the status quo.

On balance, the Ministry considers the financial benefits of introducing a maximum repayment timeframe are unlikely to outweigh the costs

204. The Ministry has carefully weighed up the costs, benefits and expected consequences of introducing a 9- or 12-month maximum repayment timeframe. On balance, the Ministry considers the financial benefits to future residents are not sufficient to justify the costs because most units are relicensed before 9 or 12 months. Not enough residents would receive a financial benefit to justify the additional costs all residents would face. However, the Ministry acknowledges it is not possible to quantify the benefits to residents and their estates of having certainty around the maximum repayment timeframe, and this is a key ask of residents.

205. The Ministry has also considered the potential negative impact on current residents (if some operators reduce the quality of the range of services and facilities they offer to meet the additional costs), and the risks to the sustainability and diversity of retirement villages across New Zealand.

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

206. No, the Minister's preferred option:

- does not include an initial 10 percent payment to existing residents,
- limits the application scheme to former residents, but not estate beneficiaries experiencing hardship,
- includes interest payments from 6 months, with the interest rate set by the Interest on Money Claims Act 2016 with no increases over time, and
- includes a mandatory 12 month timeframe for paying residents' net termination proceeds (with exemptions and extensions).

207. The Minister's preferred option in the Cabinet paper does not include option three – an initial 10 percent repayment requirement for residents exiting to live elsewhere, which was recommended by the Ministry. Instead, exiting residents would need to apply for early release of funds owed to them. An applications based approach is expected to have lower associated costs and risks for operators. However, this will also deliver lower benefits, as only residents who apply and meet the legislative criteria would be granted early release of funds.

208. Officials also recommended that the application scheme be open to estate beneficiaries on financial hardship grounds. The Minister's preferred option in the Cabinet paper is for eligible applicants to be narrowed to exclude estate beneficiaries. This is a lower cost and more administratively simple approach.

209. The Minister's preferred option includes the introduction of a 12-month statutory maximum repayment timeframe to repay the former resident their net termination proceeds if their former unit has not already been relicensed. The Minister considers this contributes to a package of changes that meet the objectives of the review. The costs and risks would be managed through exemptions (for small villages, owner-occupied villages and villages that share 50 percent or more of capital gains with the former resident), extensions where necessary, and applying the change to new contracts entered into after an appropriate transition period.

210. Regarding other proposals, the Minister and the agency's preferred options are broadly aligned.

Other more minor issues and legislative clarifications

211. During the review, other more minor issues and legislative clarifications have also been raised in relation to financial exit matters. As part of the package of changes, officials have recommended:

  a. addressing cases where new residents move in before the former residents are repaid – legislation would require a resident's net termination proceeds to be paid no later than five working days after the date the operator receives payment in full from the new resident, or a new resident moves into the unit (whichever is earliest),

  b. mandating that a resident's net termination proceeds must be paid out by the village's statutory supervisor, where one has been appointed – to provide independent oversight of exit payments to former residents,

  c. clarifying that where the retirement village operator has the responsibility for the sale of the residential unit the resident is not liable for the cost of the refurbishment of the unit at the end of their stay except if there is damage beyond fair wear and tear that the resident has caused (this would remove outdated clauses that relate to pre-2006 ORAs), and

  d. addressing ORA terms which allow operators to directly pass on marketing and sales fees to residents[28] – instead these costs would need to be incorporated in upfront charges.

212. The Minister has agreed to progress these changes in line with the Ministry's recommendations.

[28] In the context of its recent retirement village investigation, the Commerce Commission expressed a preliminary view that such terms are potentially considered an unfair contract term under the Fair Trading Act 1986.

What are the marginal costs and benefits of the preferred package of options in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred package of options compared to taking no action			
Operators	The recommended package of options will have some cost implications for retirement village operators, particularly for operators that have not already adopted sector best practices promoted by the RVA. Additional costs incurred by statutory supervisors (if any) will be passed on to operators. <u>Stopping weekly fees after exit</u> For the small minority of operators who still charge weekly fees after exit, the average cost impact per unit per annum is estimated to be between \$453 – \$629. <u>Stopping fixed deductions from accruing after exit</u> The Ministry expects overall cost implications for operators to be relatively low as most operators already stop fixed deductions from accruing after a resident's exit from the village. <u>Addressing capital loss clauses</u> This proposed change is expected to have no financial impact for the vast majority of operators. <u>Application scheme for early repayment of funds</u> While the Ministry cannot provide exact costings due to data limitations, we expect overall costs to be relatively low as the scheme is focused on meeting specific needs, and a number of operators already provide partial early repayment of funds on an ad hoc basis. <u>Requiring interest payments after six months</u> This proposal is expected to be relatively low-cost for operators, indicatively costing between	Cost impacts are expected to be low-medium overall, many of these changes align with existing sector best practice – see 'comment' column for further details on indicative costs per proposal.	Medium

Affected groups	Comment	Impact	Evidence Certainty
	$75 – $233 per unit per annum for operators that currently pay interest after 9 months, and between $118 – $338 per unit per annum for operators that do not currently pay any interest in the first year following introduction. 12 month repayment timeframe A 12 month mandatory repayment timeframe is expected to have an associated opportunity cost per unit per annum of between $735 – $1,378. Improving reporting requirements and access to dispute resolution services Costs related to these minor changes are expected to be minimal.		
Current residents	Retirement village operators have very limited ability to pass on any additional costs to current residents, as the entry price and the fixed deduction on exit are already set out in ORAs. Most residents' ORAs also specify that weekly fees charged are either fixed upfront, or annual fee increases are capped by reference to rises in superannuation or the consumer price index. It is estimated that only 10 percent of residents pay variable weekly fees,[29] and fee increases for residents are subject to consultation requirements.	Low	Medium
Future residents	The Ministry expects retirement village operators will try to pass on any additional costs where possible. Future residents will have a choice as to whether collective and ongoing costs (the entry price, fixed deduction and weekly fees) of the retirement village are acceptable.	Cost impacts are expected to be low relative to the purchase price of an ORA.	Medium
s 9(2)(f)(iv)			

[29] As highlighted in this article Rising weekly fees put retirement village residents under pressure | RNZ News

Affected groups	Comment	Impact	Evidence Certainty
Total monetised costs		Low-Medium	
Non-monetised costs		Low	
Additional benefits of the preferred package of options compared to taking no action			
Operators	Improved consumer protections may increase the attractiveness of retirement village living to prospective residents, resulting in more demand for units and/or greater willingness to pay higher costs.	Low	Low
Current residents	Current residents will benefit from the following proposals: <u>Stopping weekly fees after exit</u> Indicative cost savings for residents when they exit could range from $2,080 on average, if the unit is relicensed after three months, to $8,320, if the unit is relicensed after 12 months. <u>Stopping fixed deductions from accruing after exit</u> This proposal is expected to provide significant financial benefits for residents who live in their unit for only a short period of time (e.g., due to ill health or changing personal circumstances) and their unit takes longer than average to be relicensed. <u>Addressing capital loss clauses</u> For the small number of residents who have capital loss clauses in their ORAs, this change will improve fairness and remove the risk of a loss of funds from their net termination proceeds due to capital losses where they are not entitled to any capital gains. <u>Improving reporting requirements and access to dispute resolution services</u> These changes are expected to give residents better visibility of progress made to relicense their unit, and to help exiting residents or their estate beneficiaries resolve issues related to	Low-Medium	Medium

Affected groups	Comment	Impact	Evidence Certainty
	relicensing more quickly where operators are not meeting their obligations.		
Future residents	In addition to the benefits listed above, future residents will also benefit from: <u>An application scheme for early repayment of funds</u> The application scheme will provide exiting residents an avenue to seek early repayment from their net termination proceeds where there is a pressing need for funds. This is expected to help address the most common complaints about lack of access to funds and reduce financial stress for exiting residents. <u>Requiring interest payments after six months</u> Interest payment requirements will provide financial compensation to residents for long wait times and an additional financial incentive for operators to relicense units as quickly as possible. For new residents in the first year following introduction, indicative interest payments at the time they move out would be expected to range from $4,458 – $7,047 for a unit sold at 9 months to $8,915 – $14,094 for a unit sold at 12 months. <u>12-month repayment timeframe</u> All residents will benefit from improved certainty about when they will receive their funds after termination of their ORA with the introduction of a mandatory repayment timeframe. In addition, the Ministry expects approximately 5 –10 percent of exiting residents per annum will benefit financially (depending on market conditions) from receiving funds earlier than they otherwise would have, without the mandatory repayment timeframe being in place. This equates to around 275 – 687 residents per annum, who could receive between $6,122 – $16,734 in additional financial return from receiving their money earlier than they otherwise would have.	Medium	Medium

Affected groups	Comment	Impact	Evidence Certainty
Total monetised benefits		Medium	
Non-monetised benefits		Medium	

What are the marginal costs and benefits of the Ministry's preferred package of options?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Operators	Initial 10 percent repayment requirement on exit Indicative modelling shows that this proposal has an associated opportunity cost of between \$264 – \$689 per unit per annum. However, the Ministry would expect a much lower number of applications for further funds due to the initial 10 percent repayment requirement compared to the Minister's preferred option. This option would also have reduced administrative complexity. Extending eligibility for the application scheme Opening up eligibility for the application scheme to estate beneficiaries on hardship grounds where the resident has passed away is expected to have relatively low additional costs, based on the number of applicants for similar hardship application schemes. Stepped interest payments This proposal is expected to indicatively cost between \$128 – \$325 per unit per annum for operators that currently pay interest after 9 months, and between \$215 – \$576 per unit per annum for operators that do not currently pay any interest, in the first year following introduction	Low-Medium	Medium
Current residents	The Ministry has recommended that these proposed changes not apply to existing ORAs.	Nil	High
Future residents	Initial 10 percent repayment requirement on exit The Ministry expects retirement village operators will try to pass on any additional costs where possible. If all costs are passed on to new residents through a more expensive upfront capital sum for purchasing an ORA or	Low-Medium	Medium

Affected groups	Comment	Impact	Evidence Certainty
	through a higher fixed deduction on exit, modelling indicates around $2,322 – $6,062 could be added to the purchase price of new ORAs or to the fixed deduction from 2029. Future residents will have a choice as to whether collective and ongoing costs (the entry price, fixed deduction and weekly fees) of the retirement village are acceptable. <u>Extending eligibility for the application scheme</u> The Ministry expects this would have limited additional cost implications.		
s 9(2)(f)(iv)			
Total monetised costs		Low-Medium	
Non-monetised costs		Low	
Additional benefits of the preferred option compared to taking no action			
Operators	Improved consumer protections may increase the attractiveness of retirement village living to prospective residents, resulting in more demand for units and/or greater willingness to pay higher costs.	Low	Low
Current residents	The Ministry has recommended that these proposed changes not apply to existing ORAs.	Nil	High
Future residents	<u>Initial 10 percent repayment requirement on exit</u> Modelling indicates a new resident purchasing an average value retirement village unit in 2029 could expect to receive back around $61,000 shortly after exit from their net termination proceeds owed. This would be sufficient in most cases to address pressing needs, such as moving costs, aged residential care or alternative accommodation costs, reducing financial stress for exiting residents.	Medium	Medium

Affected groups	Comment	Impact	Evidence Certainty
	The certainty for residents around the 10 percent partial early repayment and when they would receive it is also expected to reduce emotional stress and reduce the need for most residents to go through an application process, which can be intrusive and stressful. <u>Extending eligibility for the application scheme</u> Expanding eligibility for the application scheme to estate beneficiaries on hardship grounds delivers additional benefits by providing assistance to more individuals, where this is needed. <u>Stepped interest payments</u> Stepped interest payments from 9 months would increase financial benefits for residents whose units take a longer time to sell. For example, for new residents in the first year following introduction, indicative interest payments at the time they move out would be expected to range from $10,330 – $15,509 for a unit sold at 12 months		
Total monetised benefits		Medium	
Non-monetised benefits		Medium	

Impacts on Māori

213. The preferred package of options 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.

214. 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.[30]

215. 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 1 percent of residents self-identified as Māori.[31]

216. 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.[32] [33]

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30 As noted in this recent article [Outlook on NZ's retirement village sector | JLL]

31 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;10(9):e035876. doi: 10.1136/bmjopen-2019-035876. PMID: 32948550; PMCID: PMC7511621.

32 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.

33 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

How will the proposal be implemented?

217. If Cabinet agrees to the package of proposed legislative changes an amendment Bill is expected to be introduced by July 2026 and enacted in 2027.

Managing the transition

218. A phased commencement is planned from 2027 for some provisions, to allow for regulation making and to provide a transitional period for the sector to implement changes.

219. The recommended approach to implementation is set out in the table below and considers:

- fairness and consumer protection for residents,
- whether the change codifies best practice or presents low or minor costs for operators,
- allowing time for agencies (primarily the Ministry and the Retirement Commission) to update public guidance, and
- allowing time for operators to make changes to their ORAs to reflect changes to legislative minimum requirements and adjust their business practices such as to amend pricing and/or arrange access to more working capital as necessary.

Proposed change		**Implementation**	**Rationale**
1.	Stopping weekly fees when a resident moves out	Operators would implement the new weekly fees rule: • from the date the legislative change comes into force for residents whose ORAs are entered into after this date, and • no later than the first anniversary of the date of Royal assent for residents whose ORAs were entered into before the date the legislative change came into effect.	This change aims to rebalance fairness between operators and residents, but will affect operators' businesses, so they will need time to adjust their business practices to preserve viability.

Proposed change		Implementation	Rationale
2.	Stopping fixed deductions accruing when a resident moves out	This change would apply to all ORAs from the date the legislative changes come into force (whether entered into before or after that date).	This is a strongly unfair term/condition with no counterbalancing justification for operators. This change codifies best practice. It is also arguably an unfair contract term and therefore unenforceable.
3.	Requiring retirement village operators to outline in their ORAs what fixed deductions charged to residents will pay for	This change would apply to ORAs entered into from the date the legislative change comes into force.	This is a minor change for transparency that does not affect residents' costs and also does not need to apply to existing contracts.
4.	Residents only being liable for capital losses to the extent they are entitled to capital gains	This change would apply to all ORAs from the date the legislative changes come into force (whether entered into before or after that date).	This is a strongly unfair term/condition with no counterbalancing justification for operators. This change codifies best practice. It is also arguably an unfair contract term and therefore unenforceable.
5.	Ten percent initial repayment for residents moving out of the village to live elsewhere, and an application scheme for further repayment of additional funds for specified needs	These changes would apply to ORAs entered into twelve months after the legislation passes (e.g., if Act passed 1 January 2027, changes would apply to ORAs entered into from 1 January 2029).	These changes rebalance fairness between operators and residents. The changes will affect operators' businesses, so time will be needed to adjust their business systems and funding arrangements, and to preserve sector viability. Time will also be needed for the development of public guidance and education.
6.	Payment of interest on net termination proceeds to resident after six months	This change would apply to ORAs entered into from twelve months after the date the legislative change comes into force.	This change rebalances fairness between operators and residents and is relatively low-cost to the operator. Due to the financial implications, the Ministry considers this change should only apply to new ORAs.

Proposed change		Implementation	Rationale
			Some time is also needed for operators to update their business systems and funding arrangements, and for the development of public guidance and education.
7.	Introducing a mandatory repayment timeframe of 12 months	These changes would apply to ORAs entered into one year after the legislation passes (e.g. if Act passed 1 January 2027, changes would apply to ORAs entered into from 1 January 2028).	These changes rebalance fairness between operators and residents. The changes will affect operators' businesses, so time will be needed to adjust their business systems and funding arrangements, and to preserve sector viability.
8.	Enhanced reporting requirements	This change would apply to all ORAs from six months after the date the legislative changes come into force (whether entered into before or after that date).	This change addresses fairness between operators and residents with minimal financial or administrative cost for operators. However, some time is needed for the development of public guidance and education and for operators to update their business systems and their own guidance.
9.	Improved access to the disputes regime	This change would apply to all ORAs from six months after the date the legislative changes come into force (whether entered into before or after that date).	This change addresses fairness between operators and residents with minimal financial or administrative cost for operators. However, time is needed for the development of public guidance and education and for operators to update their business systems and their own guidance.

Information dissemination and enforcement

220. Ministry officials will work with the Retirement Commission, the Registrar and representative groups such as the RVA, RVR and CTA to get information out to operators, statutory supervisors and residents on changes to the Act and what it means for them.

221. Village statutory supervisors have a legislated function to monitor the financial position of their village and ensure that the security interests of the residents and the management of the village are adequate. As such they will play a key oversight role of villages by, for example, ensuring that villages have arranged access to sufficient funds to meet early repayment and interest requirements.

222. Where any operators are not meeting new requirements, we expect residents or their whānau would raise a complaint with the operator, raise the issue through the disputes process or bring the matter to the attention of another party such as the Retirement Commission, the Registrar, the RVA, or (if they are a member) the RVR. Further steps to enforce compliance can then be taken.

223. The RVA, which represents around 95 percent of retirement village operators, also requires all accredited members to undergo regular audits every three years which assess compliance with the Act, the related regulations under that Act, the Code and the Code of Residents' Rights.

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

224. If these proposals are agreed to, they will be integrated into pre-existing systems for monitoring and review.

225. Under the Act, the Retirement Commissioner has responsibility for monitoring the effects of the Act, the regulations, and the Code to ensure the legislative framework for retirement villages is effective. This will include any new legislative changes that are brought into effect.

226. The Retirement Commission has run an independent monitoring programme since 2008, with an annual investigation and report produced each year. The Retirement Commission also receives biannual reports from operators regarding any formal complaints they have received, which allows the Retirement Commissioner to monitor trends and any concerns or issues in the industry, including any non-compliance with legislative requirements.

227. More broadly, the Ministry will also play an ongoing stewardship role as lead policy agency responsible for the Act, listening and responding to any concerns raised by stakeholders as they arise.

Annex A: Estimated costs and benefits of stopping weekly fees on exit

The Ministry has applied the following calculation methodology to provide a rough estimate of the indicative costs of stopping weekly fees on exit in the first year, and compared this to the potential cost savings to estimated residents.

Step one: Calculating the total number of units estimated to be affected

The Ministry has calculated the total number of retirement village units in 2028 to be 47,659.[34] As an estimated 84 percent of operators already stop charging weekly fees on exit, the Ministry therefore assumes that 16 percent of units are currently being charged weekly fees after exit.[35]

- Number of units affected by changes to weekly fee requirements: 47,659 x 16% = 7,625

Of these, the Ministry would expect only 12 –15 percent of units[36] to be exited in any given year:

- Low estimate – 7,625 x 12% = 915
- High estimate – 7,625 x 15% = 1,144

Step two: Estimating the cost of weekly fees

The average weekly fee charged per unit in 2028 is estimated to be $160.

- The Ministry has calculated this based on the 2023 estimate of $140[37] adjusted for the average increase in CPI per annum over the last 10 years of 2.7 percent to reach a 2028 figure.

Step three: Applying the latest available relicensing rates to calculate estimated total cost per annum to operators

Using ORA relicensing data provided by the RVA, the Ministry has calculated the total estimated costs per annum to operators in 2028 of weekly fees stopping on exit in both a good year (using 2021 relicensing data), and a bad year (using 2023 relicensing data).

The Ministry estimates that the indicative total cost per annum to operators in 2028 will be between $3,455,040 – $5,283,600.

Note, under the Code of Practice weekly fees must be reduced by 50 percent after 6 months. This has been included in the calculations.

More detailed workings for these calculations are outlined in the tables below.

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34 Adding 3 percent per annum from 2023 estimate of 41,111 units.

35 As advised by the RVA in a recent public article https://businessdesk.co.nz/article/property/tough-conditions-set-to-continue-for-retirement-villages

36 Based on expected annual turnover/relicensing of units.

37 Based on Retirement Villages Association data provided for the 2023 Martin Jenkins cost benefit analysis. https://www.hud.govt.nz/assets/Uploads/Documents/RVA-Consultation/Cost-benefit-analysis-RVA-review.pdf

Low range estimate of costs per annum to operators

Length of time	Relicensing rate[38]	Expected number of affected units[39]	Total cost of weekly fees[40]
3 months	38%	348	$723,840
6 months	39%	357	$1,485,120
9 months	14%	128	$665,600
12 months	4%	37	$230,880
16 months	5%[41]	46	$349,600
Totals		916 (rounded up)	$3,455,040

High range estimate of costs per annum to operators

Length of time	Relicensing rate[42]	Expected number of affected units	Total cost of weekly fees
3 months	27%	309	$642,720
6 months	37%	423	$1,759,680
9 months	21%	240	$1,248,000
12 months	10%	114	$711,360
16 months	5%	57	$433,200
Totals		1143 (rounded down)	$4,794,960

38 Using 2021 relicensing data provided by the RVA.

39 Calculated based on the number of units expected to be affected in 2028 x relicensing rate (e.g. 915 x 38% = 348 units).

40 Calculated based on the number of units x the average weekly fee x the length of time (in weeks) (e.g. 348 x 160 x 13 = $723,840).

41 ORA relicensing data provided by the RVA indicates that 9 percent of units in 2021 took longer than 9 months to sell, but the data does not break this down further. For calculation purposes the Ministry has assumed that 4 percent of units will take up to 12 months to relicense and the remaining 5 percent of units will be relicensed within 16 months. Note, this replicates the same assumptions that were used in the 2023 Martin Jenkins cost-benefit analysis.

42 Using 2023 relicensing data provided by the RVA.

Step four: Calculating the cost per unit

The Ministry expects affected operators will likely pass on additional costs, where possible, either through increased weekly fees or as a cost to new residents through a higher fixed deduction on exit, or a more expensive upfront capital sum for purchasing an ORA.

Assuming affected operators spread the cost across all units in their villages, the estimated average cost increase per unit per annum in those villages would be between $453 – $629.
Low estimate – $3,455,040 / 7,625 = $453

- High estimate – $4,794,960 / 7,625 = $629

If costs are passed on to new residents through a more expensive upfront capital sum for purchasing an ORA, the Ministry would expect, on average, an additional $3,986 – $5,534 to be added to the purchase price of new ORAs in those villages that are still charging weekly fees. This is based on the expectation that residents indicatively reside in a village for around eight years, and accounts for an annual increase in line with the CPI.

Estimated benefits in comparison with the counterfactual

The costs for an exiting resident from ongoing weekly fees after exit will differ significantly, depending on the time taken for the village to relicense the unit.

However, taking into account an average weekly fee of $160, the Ministry expects cost savings for exiting residents will range from:

- $2,080, if the unit is relicensed after 3 months, to
- $8,320, if the unit is relicensed after 12 months.

Not having to pay these costs removes a financial burden at the point the resident is no longer receiving any benefit from village services and amenities which the weekly fee is charged for. In addition, if a resident has moved to another retirement village (e.g., to be closer to family, or to enter a care facility not associated with their original village) they could be paying two lots of weekly fees for a period of time.

Caveats and limitations

These calculations are designed to provide a rough estimation of costs using average figures. The costs for individual villages and residents will differ on a number of factors, including weekly fee costs, annual turnover and relicensing timeframes, which are impacted by changing market conditions.

The Ministry has heard from stakeholders that, in previous years, weekly fees were commonly fixed for life. This has kept average weekly costs low. However, for new ORAs, weekly fees may be significantly higher, which would increase costs. Conversely, for some residents who have lived in their village for a long time, their weekly fees may be much lower than average. It is important to note that the Ministry has assumed for these calculations that operators who have stopped charging weekly fees on exit have not continued to charge weekly fees for historical contracts, as the Ministry does not have data on what (if any) proportion of total ORAs may still have terms which allow weekly fees to be charged on exit.

Annex B: Estimated costs and benefits of paying a 10 percent initial repayment on exit option

The Ministry has applied the following calculation methodology to provide a rough estimate of indicative costs and benefits of introducing a 10 percent initial repayment requirement for the first cohort of residents in 2029.

Step 1: Calculating the total number of units estimated to be affected

The Ministry estimates that there will be 49,089 total retirement village units in 2029.[43] The Ministry has recommended an exemption for small villages with less than 50 units, this brings the total down to 45,811.

- 49,089 – 3,728 (estimated number of small units) = 45,811

The Ministry has also recommended that the 10 percent initial repayment apply only to residents moving elsewhere to live, as living residents have the most pressing need for funds.

While the Ministry does not have New Zealand data on the number of retirement village exits due to deceased estates, Property Council of Australia data indicates that 50 –64 percent of exits are due to a deceased estate. Using these percentages as a guide, this brings the figures to 16,492 – 22,906 units with residents moving elsewhere on exit.

- Low estimate – 45,811 x 36% = 16,492
- High estimate – 45,811 x 50% = 22,906

But in any given year only 12 –15 percent of units are expected to be relicensed.

- Low estimate – 16,492 x 12% = 1,979
- High estimate – 22,906 x 15% = 3,436

Step 2: Calculating total estimated costs

The Ministry has calculated the average value of a retirement village unit in 2029 to be $816,297. This is based on the 2025 figure of $697,774, adding 4 percent per annum for growth in value.

Assuming an average fixed deduction of 25 percent, the average repayment amount for a unit purchased in 2029 is estimated at $612,223.

For an individual unit a 10 percent early repayment requirement would be $61,222.

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[43] Based on 41,111 units in 2023 from the JLL report, adding 3 percent per annum for growth in units – accounting for the market downturn.

Collectively, the sector would likely need to hold or arrange access to capital of between $121 – $210 million.

- Low estimate – $61,222 x $1,979 = $121 million.
- High estimate – $61,222 x $3,436 = $210 million.

If this money is held in reserve, this has an opportunity cost of $12 million – $32 million per annum for the sector.

- Low estimate – $121 million x 10% weighted average cost of capital = $12.158 million.
- High estimate - $210 million x 15% weighted average cost of capital = $31.554 million.

Step three: Calculating estimated unit costs

Assuming affected operators spread the cost across all units in their villages, the estimated average cost per unit per annum in 2029 would be $264– $689.

- Low estimate - $12.158 million / 45,811 = $264
- High estimate - $31.554 million / 45,811 = $689

If all costs are passed on to new residents through a more expensive upfront capital sum for purchasing an ORA, we would expect an additional $2,322 – $6,062 to be added to the purchase price of new ORAs in 2027, based on the expectation that residents indicatively reside in a village for around 8 years, and accounting for an annual increase in line with the CPI.

Estimating individual benefits

Indicatively, a new resident purchasing an average value retirement village unit in 2029 could expect to receive back around $61,000 shortly after exit from their net termination proceeds if the requirement for a 10 percent partial early repayment was introduced.[44]

The Ministry expects this would be sufficient in most cases to address pressing needs, such as moving costs, and aged residential care or alternative accommodation costs. This is also expected to reduce emotional stress as the resident would have clarity and certainty around the 10 percent partial early repayment and when they would receive it.

Caveats and limitations

These calculations are designed to provide a rough estimation of costs and benefits using average figures. The costs and benefits for individual villages and residents will differ on a number of factors, including retirement village unit prices, annual turnover and relicensing timeframes, which are impacted by changing market and economic conditions.

In addition, operators' ability to pass on increased costs to residents through higher prices will be influenced by and correlated with wider housing market conditions.

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[44] Assuming an average value of retirement village units in 2029 (the first year of implementation) of $816,297 and a fixed deduction from the resident's capital sum of 25 percent.

Annex C: Estimated costs and benefits of introducing interest payment requirement after six months

The Ministry has applied the following calculation methodology to provide a rough estimate of the indicative costs of introducing interest payment requirements after six months in the first year following introduction, and the indicative individual benefits of interest payments.

Step one: Calculating the total number of units estimated to be affected

The Ministry does not have good data on the percentage of operators who already pay interest after either six or nine months. But the Ministry is aware that:

- A number of operators already pay interest around six months after exit if the unit has not been relicensed. This includes Arvida, Bupa, Oceania and Ryman, which collectively own around 40 percent of all units.
- Of the remaining large operators, Metlifecare (which owns around 13 percent of units) pays interest after 9 months, while Summerset (which owns around 14 percent of units) does not pay interest at all. In addition, as part of its Blueprint, the RVA promoted operators paying interest on capital sums if a unit is still vacant after nine months.

For estimation purposes, the Ministry has assumed 40 percent of units are largely not affected (as they already receive interest after six months), a further 30 percent of units already receive interest after 9 months, and the remaining 30 percent of units receive no interest.

- Based on the total number of expected retirement village units in 2027 (46,271), and accounting for small operators (3,728 exempt units), this means 12,763 units are estimated to receive interest after 9 months and the same number are expected to receive no interest.

Of these, the Ministry expects only 12 –15 percent of units[45] to be exited in any given year.

- 12,763 x 12% = 1532 units (low estimate), 12,763 x 15% = 1,914 units (high estimate).

Step two: Calculating the average repayment amount that interest would be charged on

The Ministry has calculated the average value of a retirement village units in 2027 to be $754,712. This is based on the 2025 figure of $697,774, adding 4 percent per annum for growth in value.

Assuming an average fixed deduction of 25 percent, the average repayment amount for a unit purchased in 2027 is estimated at $566,034.

- $697,774 x 75% = $566,034

[45] Based on expected annual turnover/relicensing of in units.

Step three: Estimating interest rates

The long term average interest rate used by Martin Jenkins in the previous CBA was 3 percent (with 0.15 percent added for the Interest on Money Claims Act 2016 premium). But current interest rates are much higher, as of March 2025 using the formula from the Interest on Money Claims Act 2016 the applicable interest rate is 4.98 percent.

To account for variation in interest rates impacting costs, the Ministry has considered both a lower cost scenario using a 3.15 percent interest rate, and a higher cost scenario using a 4.98 percent interest rate.

To add an additional financial incentive for operators to relicense units quickly and to better compensate residents for long wait times, the Ministry's preferred option is for stepped interest rates to apply, with:

- an additional one percent added to the applicable interest rate if the former resident's unit is not relicensed after nine months,
- an additional 2 percent added to the applicable interest rate if the former resident's unit is not relicensed after 12 months.

Step four: Applying relicensing rates to calculate estimated total interest cost per annum to operators

Using ORA relicensing data provided by the RVA, the Ministry has calculated the total estimated costs per annum to operators in 2027 as outlined in the below table.

Indicative costs of the Ministry's preferred option

Current status	**Interest cost per annum for the sector** [46]	**Interest cost per unit per annum** [47]	**Potential increase in capital sum or fixed deduction per unit**[48]
Operator pays interest after 9 months	$1.571 –$4.991m	$123 – $391	$1,083 – $3,440
Operator does not pay interest	$3.124 – $9.943m	$245 – $779	$2,153 – $6,854

Total sector additional costs per annum in 2027 are estimated at between $4.695 - $14.934 million.

The Minister's preferred option for interest payments differs slightly from the Ministry's, in that interest payments would not have stepped increases in the applicable interest rate after 9

46 Lower estimate assumes applicable interest rate of 3.15 percent, higher estimate assumes applicable interest rate of 4.98 percent, with an additional 1 percent added to the applicable interest rate after 9 months, and an additional 2 percent added to the applicable interest rate after 12 months.

47 Assuming costs are spread across all affected units.

48 Assuming an average stay of 8 years in a unit and accounting for inflation based on the average increase in CPI per annum of 2.7 percent. If costs are passed on through an increase in the upfront capital sum, following relicensing of the unit the resident will generally receive around 75 percent of their capital sum back.

months, and as a result of introducing also introducing a maximum mandatory repayment timeframe of 12 months there would be no need for further interest payments after this date. These shifts bring down the likely interest costs for operators. Indicative costs are outlined in the table below.

Indicative costs of the Minister's preferred option

Current status	Interest cost per annum for the sector	Interest cost per unit per annum	Potential increase in capital sum or fixed deduction per unit
Operator currently pays interest after 9 months	$956k - $2.967m	$75 - $233	$659 - $2,046
Operator does not currently pay interest	$1.502 - $4.317m	$118 - $338	$1,035 - $2,976

Estimating individual benefits

Based on ORA relicensing data, the Ministry estimates that 63 – 77 percent of exiting residents in a given year will receive no interest as they receive their capital sum repayment in less than 6 months.

For an exiting resident with an average value unit, they would indicatively receive between $4,458 and $7,047 in interest compensation if their unit took 9 months to relicense.

- The low estimate is based on 3 months of interest at 3.15 percent on the average repayment amount of $566,034.
- The high estimate is based on 3 months of interest at 4.98 percent on the average repayment amount of $566,034.

For an exiting resident with an average value unit, they would indicatively receive between $10,330 and $15,509 in interest compensation if their unit took 12 months to relicense.

- The low estimate is based on 3 months of interest at 3.15 percent on the average repayment amount of $566,034, plus 3 months of interest at 4.15 percent.
- The high estimate is based on 3 months of interest at 4.98 percent on the average repayment amount of $566,034, plus 3 months of interest at 5.98 percent.

Caveats and limitations

These calculations are designed to provide a rough estimation of costs using average figures. The costs for individual villages and residents will differ on a number of factors, including interest rates, annual turnover and relicensing timeframes, which are impacted by changing market and economic conditions.

There is some uncertainty about how many ORAs entitle residents to interest payments after six months or nine months. The percentages used are broad estimates based on available information.

For the Ministry's preferred option, the Ministry has not attempted to include in costings the additional interest costs of stepped interest payments (e.g. the extra 1 percent interest after 9 months, and the extra 2 percent interest after 12 months) compared to the standard interest rate for operators who already pay interest after 6 months. The Ministry expects this additional cost to be small given 80 – 91 percent of units are expected to be relicensed before 9 months in any given year.

Annex D: Calculating costs and benefits of introducing a mandatory repayment timeframe

In 2023 the Ministry contracted Martin Jenkins to undertake a cost-benefit analysis on options for reforms to the Act, including potential 6 and 12 month mandatory repayment timeframes. The financial benefits for former residents and their families were assessed as being significantly less than the collective costs to operators.

The modelling indicated $57 million in benefits for a 6-month repayment timeframe compared to $266 million - $1.1 billion in costs for operators, and $15 million in benefits for a 12-month repayment timeframe compared to $121 million - $500 million in costs, over a 10-year timeframe.

Concerns were raised by the RVR, the RVA and the CTA about the underlying assumptions and methodology in how these figures were calculated. The Ministry has since undertaken additional work on potential costs and benefits of introducing a mandatory repayment timeframe of either 3, 6, 9 or 12 months, focusing on impacts for new residents in the first year following introduction using more up-to-date data on average unit values and relicensing timeframes and stress testing for a wider range of potential outcomes.

This analysis still indicates that the expected costs would likely outweigh the direct financial benefits to residents.

Table of variables used in calculations

Variables		3 month repayment timeframe	6 month repayment timeframe	9 month repayment timeframe	12 month repayment timeframe
Average value of retirement village units (starting year 2029)	V	$816,297 (calculated based on February 2025 estimated capital value of $697,774 provided by CBRE, adding 4% p.a. for growth in value.[49]			
Total number of units (starting year 2029)	N	45,811(calculated based on 2023 figure of 41,111 from August 2024 JLL White Paper, adding 3% p.a. for growth in units, minus small operators who would have an exemption).[50]			
Average turnover per annum	VR	12% (estimate used in Martin Jenkins report)			
		15% (high estimate)[51]			
Total value of unoccupied units at	TV	TV = V*N*VR			

[49] Note, the 4 percent growth rate is based on an averaged figure from Reserve Bank of New Zealand house price inflation estimates for the next 3 years.

[50] Note, the growth rate is lower than the five percent estimated growth in units per annum used in the Martin Jenkins report to take into account the sector downturn.

[51] Stakeholders raised concerns that the 12 percent turnover rate used in the Martin Jenkins report did not take into account the increasing number of care suite ORAs which have a much higher turnover rate, and also changing demographics where residents enter units at an older age, which impacts turnover rates. A 15 percent turnover rate has been included to stress test for a wider range of potential outcomes.

Variables		3 month repayment timeframe	6 month repayment timeframe	9 month repayment timeframe	12 month repayment timeframe
mandatory exit deadline					
Average fixed deduction	D	25%			
Aggregate value of exit entitlements for vacant units	EE	EE = TV*(1-D)			
Proportion of unoccupied units at mandatory exit deadline (reflects relicensing rate)[52]	P	68% (2021 data - rising market)	23% (2021 data - rising market)	9% (2021 data - rising market)	5% (2021 estimate by Martin Jenkins – rising market)
		73% (2023 data - market downturn)	37% (2023 data - market downturn)	15% (2023 data - market downturn	Unknown
Capital adequacy buffer[53]	CA	24%	12%	5%	5%[54]
		Note, this adds a 33% buffer from 2023 figures to account for a likely worst case scenario in a market downturn.			
Aggregate value of exit entitlements for units required to be funded at deadline, including a capital adequacy buffer	MEEP plus buffer	MEEP plus buffer = EE*(P+CA)			
Weighted average cost of capital	WAAC	10% (estimate used in Martin Jenkins report)			
		15% (high estimate)[55]			

52 To account for the range of potential outcomes in different market conditions the Ministry has used relicensing rates from both 2021 (a good year) and 2023 (a bad year) in calculations.

53 REINZ data for the housing market over multiple market cycles going back to 1992 indicates days to sell generally doubles between market peak and market downturn (e.g., 27 days to sell in December 2020 versus 60 days to sell in February 2023). REINZ days to sell in 2021 was 31 days (largely in line with market peak) and in 2023 was 49 days during the downturn (a 58 percent increase). The Ministry has added a 33 percent capital adequacy buffer from 2023 figures to account for a likely worst case scenario in a market downturn. This is different to the buffer used in the Martin Jenkins report, as more recent relicensing data indicates that the previous buffer was insufficient.

54 The Ministry does not have data for 2023 for the 12 month scenario, so the Ministry has doubled the 2021 estimate to account for a likely worst case scenario.

55 Feedback from stakeholders on the Martin Jenkins report highlighted that introducing a mandatory repayment timeframe increases risks for retirement villages, and as risk increases so does the cost of capital for businesses, therefore using 10 percent WAAC in calculations may be low. The PWC cost of capital report 2022 indicates that while the WAAC for the Health and Aged Care sector (which covers retirement villages) averages 10.4 percent, the max range is 15.3 percent. The Ministry has used 15 percent as a high estimate in calculations.

Variables		3 month repayment timeframe	6 month repayment timeframe	9 month repayment timeframe	12 month repayment timeframe
Opportunity cost per annum	C	C = MEEP plus buffer*WACC			
Opportunity cost per unit per annum	UC	UC = C/N			

Twelve month mandatory repayment timeframe option

Step one: Calculating estimated capital adequacy requirements

The Ministry estimates that, collectively, the sector would likely need to hold or arrange access to capital of between $337 million - $421 million.

- Step 1a: TV = (V*N*VR) where V = $816,297, N = 45,811 and VR = 12 – 15%, so TV = $4.487 billion – $5.609 billion
- Step 1b[56]: EE = TV*(1-D) where D = 25%, so EE = $3.366 billion – $4.207 billion
- Step 1c: MEEP plus buffer = EE*(P+CA) where P = 5% and CA = 5%, so MEEP plus buffer = $336.558 million – $420.698 million

Step two: Calculating the estimated opportunity cost for operators

If this money is held in reserve by operators this has an estimated opportunity cost (C) of $34 million - $63 million per annum for the sector

- Step 2a: C = MEEP plus buffer*WACC where WACC = 10 –15%, so this results in an opportunity cost for the sector of $33.656m - $63.105 million per annum

The estimated opportunity cost per unit per annum would be $735 – $1,378.

- Step 2b: UC (Unit Cost) = C/N, where C = $33.656 million – 63.105 million, and N = 45,811, so UC = $735 – $1,378.

Step three: Calculating the potential cost impact for residents if all costs were passed on

If costs are passed on to new residents through a more expensive upfront capital sum for purchasing an ORA, the Ministry would expect an additional $6,466 – $12,120 to be added to the purchase price of new ORAs in 2029, based on the expectation that residents indicatively reside in a village for around 8 years, and accounting for an annual increase in line with the CPI.

[56] Note, the original formula in the previous cost-benefit analysis at this stage was EE = [TV*1-D] – [CG*PCG*(1-RCG)]. This formula allows for consideration of different costs for capital gains sharing arrangements, which is more commonly used in Australia. However, in New Zealand it is estimated that around 95 percent of ORAs are under a licence to occupy model which does not share capital gains. In New Zealand reliable data is not available for CG (the total value of vacant units of average capital gains/loss) or RCG (residents average share of capital gains) which meant that in the original cost-benefit analysis these figures were all set to zero. The Ministry has taken these zero rated figures out of the calculation for simplicity.

Step four: Calculating the expected number of residents who would benefit per annum

With a 12 month repayment timeframe, the Ministry expects 90 –95 percent of units would have been relicensed earlier than this deadline. Therefore, compared to the status quo, direct benefits from a mandatory repayment timeframe per annum are attributable to between 275 – 687 unit owners.

- Low estimate – (N*VR low) *P, where N = 45,811, VR low = 12%, and P = 5%, so the low estimate = 275 unit owners.
- High estimate = (N*VR high) *(P+CA), where N = 45,811, VR high = 15%, P = 5% and CA = 5%, so the high estimate = 687 unit owners

Step five: Calculating the expected financial return for residents

Feedback from the RVR highlighted that the expected financial return for residents used in the Martin Jenkins report was a very conservative estimate, based on simply placing funds received earlier in the bank and receiving a three percent return in interest. The Ministry has considered a wider range of potential scenarios.

For modelling purposes, the Ministry has assumed all units are relicensed within 16 months[57], so 275 – 687 unit owners would receive their money 4 months earlier than they otherwise would have. To calculate the benefits of this, the Ministry has considered three potential scenarios. An exiting resident or their estate puts the funds into the bank and receives interest, funds are used to pay a mortgage off earlier, or the funds are invested in a growth KiwiSaver account.

- If invested in the bank (4 months return on $612,223 at 3 percent) = opportunity cost of $6,122 per unit
- If paying down a mortgage (4 months return on $612,223 at 5.88 percent) = opportunity cost of $12,000 per unit
- If invested in a growth KiwiSaver fund (4 months return on $612,223 at 8.2 percent) = opportunity cost of $16,734 per unit

The estimated range of direct financial benefits for new residents in the first year following legislation being passed when they exit their unit is between $1,683,550 - $11,496,258

- Low estimate calculated as (6,122 x 275)
- High estimated calculated as (16,734 x687)

Conclusions

In practical terms, a new resident in the first year following legislation being passed could end up paying between $6,466 - $12,120 in an increased capital sum or fixed deduction on exit in exchange for a 5-10 percent chance on average of an extra $6,122 – $16,734 in additional financial return from receiving their money 4 months' earlier than they otherwise would have.

[57] Note, this assumption was used in the earlier Martin Jenkins cost benefit analysis.

Three, six and nine month mandatory repayment timeframe options

Using the same calculation methodology outlined above but with different variables for the proportion of unoccupied units at different mandatory exit deadlines and the capital adequacy buffer as applicable (e.g. at 3, 6 and 9 month mandatory repayment timeframe options).

Length of repayment timeframe	Indicative capital adequacy requirement	Indicative opportunity cost per annum	Indicative cost per unit per annum	Potential increase in capital sum/ fixed deduction per unit
3 months	$3,265 – 4,081m	$326 – 612m	$7,126 – 13,362	$62,699 – 117,560
6 months	$1,649 – 2,061m	$165 – 309m	$3,600 – 6,750	$31,672 – 59,386
9 months	$673 – 841m	$67 – 126m	$1,469 – 2,755	$12,928 – 24,239

The Ministry considers the three- and six-month options are likely unfeasible due to the high costs associated with these options. However, a nine-month option would be more feasible assuming suitable protections were in place.

Assuming operators pass on all increased costs, the Ministry estimates a new resident in the first year following legislation being passed could end up paying between $12,928 – $24,239 through an increased capital sum or fixed deduction on exit under a nine-month repayment option.

This is in exchange for a 9 – 20 percent chance (depending on market conditions) of an extra $4,592 – $29,285 in additional financial return from receiving their capital sum repayment earlier than they otherwise would have.

The Ministry estimates between 495 – 1,374 unit owners would receive a direct financial benefit per year compared to the status quo.

Annex E: Mandatory repayment timeframes – lessons from Australia

Most Australian states have now introduced mandatory repayment timeframes for retirement villages of varying lengths between 6 –-18 months, with a process for seeking extensions of time on hardship grounds or due to exceptional circumstances.

The below table[58] provides an overview of the different legislative requirements in different states in Australia.

Table 3: Exit Entitlements – Overview of other jurisdictions

Legislative requirements The RV legislation :	NSW and ACT	Qld	SA	Tas and NT	Vic
• requires exit entitlement payment within specified time frames (months):	6 (Sydney) 12 (Rural)	18	18	6	6
• applies to all residents:	✗	✓	✓	✓	✗
• makes special provision for residents moving to a RACF:	✓	✗	✓	✗	✓
• allows an operator to apply for an extension of time:	✓	✓	✓	✓	✓
• applies to existing as well as new contracts	✓	✓	✓	N/A	✗

There have not been widespread village failures/liquidations that media and peak groups predicted when the requirement to pay exit entitlements was introduced in Australian states. There are only two clear instances of mandatory buyback legislation being linked to insolvencies – Settlers Lifestyle Group and Coloola Waters Retirement Village in Queensland. Legislative provisions allowing operators to seek an extension of time appear to have helped to minimise risks.

However, there are some important contextual differences to note between the situation in Australia and New Zealand.

- Long wait times for capital sum repayments are a bigger problem in Australia, compared to New Zealand as they have much longer average repayment timeframes, for example, the average time to sell a unit is 7.5 months in Queensland, and 14 months in Western Australia. By comparison in New Zealand the average repayment timeframe varies between 4 – 6 months depending on market conditions (currently 5.5 months).

[58] Table sourced from: Decision Regulatory Impact Statement: Stage Two of proposed reforms to Retirement Villages Legislation in Western Australia. January 2022. https://www.wa.gov.au/system/files/2022-08/retirement_village.pdf page 46.

- Thirty to 40 percent fixed deductions on exit appear to be more commonplace in Australia, compared to the more usual 25 – 30 percent in New Zealand.[59] This may, in part, reflect the higher costs associated with bank lending or the opportunity costs of holding additional capital for having buyback policies in place.
- In New Zealand, the financial position of villages is monitored by statutory supervisors, who can make directions to village management to safeguard the viability of the village. There does not appear to be a comparable legislated role in Australia. The Ministry expects statutory supervisors will take a risk averse approach, requiring operators to have access to sufficient capital to weather a market downturn or other adverse events. This means operators would need to hold or arrange access to much more capital than they would need in an average year, increasing costs.

Beyond the risk of village failures or higher costs for operators and residents, the impact on the ongoing supply of retirement village units for older New Zealanders and diversity of choice across the sector also needs to be taken into account.

- Some operators in Australia raised serious concerns about cashflow requirements impacting costs for residents and the likelihood that this would push operators who currently offer capital gains towards the licence to occupy model, reducing diversity of choice across the sector. Data from 2022 from the Property Council of Australia indicates there has been a continued shift to ingoing price structures where residents are not entitled to a share of the separate capital gains.
- Operators in Australia also raised concerns that where they are funding exit entitlement payments prior to relicensing a unit, they may have less funds available for growth and development. "[A] mandatory buyback is difficult for some operators, because they have to hold capital aside for buybacks, which can stunt their growth."[60]
- This may impact on the future supply, choice and availability of retirement village living options for retirement village residents. New Zealand currently has a higher number of retirement village units per capita than Australia. Approximately 14 percent of people over 75 live in retirement villages in New Zealand, compared to 10.6 percent in Queensland, and 10.9 percent in New South Wales.

Conclusions

Based on evidence from Australia, the Ministry considers it is feasible to introduce a mandatory repayment timeframe, assuming it is of a suitable length of time and sufficient protections (such as an extension application process) are in place to manage the biggest risks. The broader question is whether it is desirable to introduce a mandatory repayment timeframe when weighing up the likely benefits versus the likely costs and risks for current and future potential residents.

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59 Inquiry into the NSW Retirement Village Sector Report. December 2017. https://www.fairtrading.nsw.gov.au/__data/assets/pdf_file/0008/381572/Inquiry_into_the_NSW_Retirement_Village_Sector_Report.pdf page 40.

60 Independent review of timeframes for exit payments in Queensland retirement villages, November 2020. https://www.housing.qld.gov.au/__data/assets/pdf_file/0016/20455/retirement-villages-exit-payment-review-report.pdf page 45.

Annex F: Bringing forward valuation timeframes

Retirement village operators must obtain a registered valuation of a unit to establish a suitable price to market the unit at if it remains vacant after six months. The Ministry has applied the following calculation methodology to consider the additional cost implications of bringing forward the valuation timeframe to four months.

Step one: Estimating the number of additional valuations per annum

The total number of expected retirement village units in 2027, is 46,271. Of these, the Ministry would expect only 12 –15 percent of units[61] to be exited in any given year.

- Low estimate – 46,271 x 12% = 5,553
- High estimate – 46,271 x 15% = 6,941

Based on relicensing data, the Ministry expects that:

- In a good year around 50 percent of units would be relicensed at 4 months (and would therefore not need a valuation), and 77 percent would be relicensed at 6 months.
- In a bad year, at least 27 percent would be relicensed at 4 months, and 63 percent would be relicensed at 6 months.

This suggests that bringing forward the valuation requirement to 4 months would result in around 27 – 36 percent of units vacated in each year needing a valuation, compared to the status quo.

The Ministry can therefore estimate that the proposal would result in between 1,499 – 2,499 additional valuations per annum.

- Low estimate – 5,553 x 27% = 1,499
- High estimate – 6,941 x 36% = 2,499

Step two: Estimating additional valuation costs

The cost of a registered property valuation is usually in the range $500 – $800.[62]

The total cost to the sector per annum of additional valuations is estimated at between $750,000 – $2 million.

- Low estimate – 1,499 x 500 = $749,500
- High estimate – 2,499 x 800 = $1,999,200

At an individual unit level, the estimated cost per unit per annum is between $16 – $43

- Low estimate – $749,500 / 46,271 = $16
- High estimate – $1,999,200 / 46,271 = $43

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[61] Based on expected annual turnover/relicensing of units.

[62] As indicated by Property Valuation NZ [Cost of a Property Valuation NZ | Property Valuation NZ]