

11 March 2025

Policy team  
NSW Fair Trading  
NSW Government

## Remaking the retirement villages Regulation

National Seniors Australia (NSA) welcomes the opportunity to make a submission to the Remaking of the Retirement Villages Regulation 2017, under the Retirement Villages Act 1999 (the Act).

NSA is the largest consumer peak representing older people in Australia. Through our research and advocacy activities, NSA works to improve the wellbeing of all older Australians, including self-funded retirees, pensioners, part-pensioners, Veterans, and carers.

Retirement villages have the potential to provide an important part of the housing mix but only if they protect the rights of current and future residents.

New South Wales should be commended for having the strongest rules regarding the reimbursement of funds to residents and their families.

NSA promotes a buyer beware approach to retirement villages given the negative feedback we receive from members and the wider community about. This places significant pressure on the purchaser to do their own due diligence when considering a move to a retirement village.

NSA believes most older people interpret the existence of dedicated legislation as conferring consumer protection. This provides a false sense of security about retirement village contractual and financial arrangements when careful due diligence is required.

It may inadvertently undermine purchasers from taking a 'buyer beware' approach because they wrongly believe they are protected by government and may be less likely to either carry out, or finalise, due diligence before entering a contract.

It is not unreasonable to assume potential buyers might struggle with the complexity of the current arrangements. Contracts are long, detailed, and not user friendly. Management agreements, individual to each village, tend to be long (more than 50 pages) and contain complex legal text. Contract interpretation requires a legal or financial adviser, or both.

Potential purchasers may not have high levels of financial literacy. Individuals may, understandably, feel embarrassed to admit they do not understand the implications of the contractual arrangements.

There is an abundance of anecdotal evidence that potential buyers too often do not read the fine print, understand the detail/context – including the financial ramifications – and/or seek family, financial, or legal advice before signing up to a retirement village. This means their ‘choice’ is made without the full picture.

Solicitors can charge up to \$5,000 to advise on agreements. Given many older people are attracted to the promise of lower up-front costs, they may be more likely to forego the advice of a lawyer (or financial advisor) due to the cost.

While advertising invariably highlights the positives of village life, it does not highlight the legal ramifications of entering a village. For example, if village advertising – even if only superficially – presents the vacant accommodation as a ‘property’ purchase which is attractive and cheaper than buying a freehold house, a consumer could purchase without understanding the full picture.

Potential residents may not fully understand the implications of future changes to maintenance and service fees. Residents make monthly payments to cover maintenance and services. These can be reduced through deferrals or paying a lump sum when they move out (see below). However, the way these operate is often complex and confusing, making them difficult to compare when looking at options, especially when deferred.

In 2020, [www.downsizing.com.au](http://www.downsizing.com.au) noted: “Despite having been the mainstay of Australia’s retirement village industry for decades, deferred management fees remain a poorly understood and confusing concept for many consumers.”

Potential purchasers may struggle to understand the implications of deferring their management fees. Calculating how much this fee will eventually cost as a lump sum is not easy without knowing how long the resident will reside in the village. While some residents understand and are comfortable with the financial implications of Deferred Management Fee (DMF), seeing a retirement village as a lifestyle, not a financial decision, others do not.

While some villages cap the total DMF after 10 years it may still be difficult to fully comprehend the eventual cost. Potential residents may be attracted to the idea of deferring the cost of their management fees but may not fully comprehend the true cost.

By obscuring the overall cost of living in a village, deferred management fees create unequal power relations at the point of purchase, which likely benefit the village owner at the expense of the potential buyer.

## What needs to change

It is vital any amendments to the Act or regulations achieve the following outcomes:

- Older people feel confident retirement villages provide a suitable option.
- Potential residents are provided with clear and consistent information to enable decision making.
- Older people are protected from unethical or predatory behaviour.

There is an opportunity to strengthen the Regulations, to protect current and future residents, and ensure retirement villages are an attractive option in the future.

Ideally, the NSW Government should negotiate with the Commonwealth, state, and territory governments to create nationally consistent and strengthened retirement village legislation with a Commonwealth ombudsman to educate consumers, monitor the sector, and handle complaints. National legislation should include the NSW 6/12 month (metro/non-metro) buy back timeframe as the national standard.

Nationally consistent retirement village legislation will create more clarity and reduce the costs of compliance benefitting consumers, operators, and government.

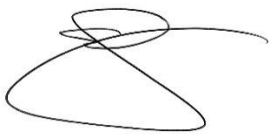
In the absence of nationally consistent legislation, the NSW Government should implement the following changes to its own legislation, so it sets the benchmark for best practice:

- Create an independent retirement villages ombudsman to educate consumers, monitor the sector, and handle complaints.
- Fees and charges must be clearly and consistently outlined in plain English in all contracts. If a contract does not specify a fee or charge and includes only the method of calculation, then an example must be provided to demonstrate what the fee might be, based on reasonable assumptions.
- Allow retirement village owners to continue to charge maintenance and service fees provided these are reasonable and clearly outlined in plain English with examples and benchmarked against other similar retirement villages. As well, an Asset Management Register should be provided to potential residents which outlines the time span of refurbishment e.g. elevators, so new purchasers are not caught unawares of new levies.
- Retirement village owners should not be allowed to charge Deferred Management Fees. These should be illegal for any new retirement village contract under revised legislation.

- Retirement village owners should be able to charge refurbishment fees only after a resident has resided in a property for period of more than 10 years - unless they can provide evidence to the ombudsman there is a need for refurbishment with items clearly itemised. Refurbishment fees should be capped as a proportion of the entry fee and clearly communicated in plain English with examples in the contract. Residents should have the right to obtain additional or independent quotes for any proposed refurbishments.
- It should be a requirement that the value of any exit fee be clearly stated in the contract as either a dollar value or as a proportion of the sale value – a table outlining exit fees over time should be provided in the contract, so the buyer understands future financial implications. It is critical older people know how much they have available from the refund of entry fees to plan for aged care.
- All advertising of accommodation should be spelled out, in plain English. What is for sale? Are they buying property? Are they purchasing a right to reside? Are they entering a leasehold arrangement? It must clear exactly what the contract involves. These terms should be outlined in plain English in a one to two-page attachment. Most people believe they are purchasing property when they are in fact purchasing a right to reside.
- It should be made clear if a resident will not be eligible for the Home Equity Access Scheme (unless the rules governing this scheme change).

Should you require further information or input, please contact Dr Brendon Radford, Director of Policy and Research via [policy@nationalseniors.com.au](mailto:policy@nationalseniors.com.au).

Kind Regards



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