

RRVV

Newsletter

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Review of the Retirement Villages Act moves to a new phase

In September 2017, in response to the recommendations of a Parliamentary Inquiry, the Victorian Government agreed to a review of the Retirement Villages Act 1986 (Act).

The Act covers contractual arrangements between retirement village operators and their residents.

On 25 October 2019, the Minister for Consumer Affairs, Marlene Kairouz announced the review by releasing an Issues Paper prepared by Consumer Affairs Victoria in consultation with a group of sector stakeholders including RRVV. The main focus of the Issues Paper is what is wrong with the current Act, residence contracts and dispute resolution. The Minister also invited residents, operators and the public to have a say in how the Act can better protect residents, while also facilitating sector growth and innovation. Consumer Affairs Victoria conducted three community forums and invited written comment on the Issues Paper. The consultation period ended on 6 December 2019.

Consumer Affairs Victoria is currently analysing the feedback received from the community forums and 100 written submissions, many of them from individual residents. You will be soon able to read the written submissions on www.engage.vic.gov.au/retirementvillagesact.

Consumer Affairs Victoria will soon start work on the second phase of the review – the preparation of an Options Paper and analysis of resident, operator and public feedback on that paper. Typically an Options Paper identifies alternative ways of addressing the problems

set out in the Issues Paper and identified through feedback on that paper.

RRVV expects Consumer Affairs Victoria will consult with RRVV and other sector stakeholders throughout the Options paper development period. However, it is not clear the Department will consult directly with residents. Accordingly, RRVV will press for direct resident consultation.

The RRVV Committee will make a formal response to the Options Paper when Consumer Affairs Victoria releases it for public comment. We will consult you before preparing our submission. Rather than wait until the release of the options paper (sometime toward the end of the year) and before we ask you what you want in RRVVs submission, we have decided to get in early. Please see the invitation to attend an RRVV Review of the Retirement Villages Act forum elsewhere in this newsletter.

You may follow the progress of the review and register to receive updates on www.engage.vic.gov.au/retirementvillagesact

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RRVV Forum; have a say

Review of the Retirement Villages Act

Residents can influence the drafting of an Act of Parliament. Last year, an RRVV members letter-writing campaign prompted changes to proposed amendments to the Owners Corporations Act.

This year our challenge is to powerfully present the residents' point of view to the Victoria Government's review of the Retirement Villages Act.

The forum is an opportunity for you to:

1. Learn about the review
2. Share ideas with other residents
3. Pick up tips on how to make an individual submission
4. Tell the RRVV committee what you want in the Association's submission

Please put the following in your diary:

Date: Monday 20 April 2019

Time: 11:00 AM to 1:30 PM (register from 10:30)

Place: Victoria University Convention Centre, Level 12, 300 Flinders Street, Melbourne
(Exit Flinders St. Station from the western end and head to the north side of Flinders Street 75 metres to the west of Elizabeth Street)

RRVV will serve a light lunch at 12:30 PM.

RSVP by emailing office@rrvv.org.au or calling 9015 8402 before 5 PM on Wednesday 15 April. If you have any special dietary requirements (e.g. gluten-free, vegan or vegetarian), please let us know.

RRVV needs more members

Please sign up someone in your village

RRVV derives strength from our members.

There are some villages where every resident is a member. That's great but if every one of you in a community where we don't have 100% membership signed up just one new member before June 30 2020, we would start the new financial year with a much stronger base. With more members, we would be in a better position to influence the Victorian Government's Review of the Retirement Villages Act and to support you, should you need assistance, with a problem relating to your village.

To help you sign up a new member (more if you can), we have inserted an RRVV application form in each newsletter. It offers new members a special deal – sign up for the 2020-2021 financial year NOW and get free membership for the remainder of the current financial year.

What do you tell people who want to know why they should join?

1. RRVV is the only body that successfully challenges the power and influence of retirement village owners and operators
2. Membership of RRVV is like an insurance policy – you hope you never need our assistance, but if and when you do, it is worth many times what you pay in subscriptions.

New research puts the spotlight on complex village legal arrangements

The University of Melbourne and Macquarie University have finished analysing responses from 950 Victorian retirement village residents surveyed late last year.

Both the Consumer Policy Research Centre (CPRC) and RRVV provided funding for the research project aimed at identifying and reviewing older Victorians motives for entering a retirement village, the decision making process, the information resources available to support decision making and how any deficiencies in those resources affected the choices they made. The researchers also set out to gauge the respondents' satisfaction with their decision to enter a retirement village.

The results will inform RRVV's submissions to the Victorian Government's review of the Retirement Villages Act.

The results provide a comprehensive account of what it is like as an older Victorian consumer to navigate the complicated maze of information resources and incomprehensible retirement village contracts currently in existence. It is clear that the decision-making process is complex and that many consumers do not understand the implications of the information they access or the contracts they sign.

Around 77% of respondents reported they were extremely or somewhat satisfied with their decision to live in a retirement village, 5% were neither dissatisfied nor dissatisfied, and 19% were extremely or somewhat dissatisfied. In RRVV's opinion, a 19% dissatisfaction rate suggests the retirement living sector of the Victorian economy has a problem.

In 2014 the Government of Victoria introduced reforms designed to improve the information available to prospective

residents and facilitate comparisons between villages. The main elements of the changes were a requirement to provide prospective residents with a fact sheet containing relevant information in a standard format and an improved disclosure statement. The researchers tested whether newer residents were more satisfied with their decision to enter a village than residents who did not have the benefit of the reforms. They found only minor differences between the two subsets of the resident population, suggesting that the changes did not deliver the intended benefits. RRVV believes prospective residents need more explicit, simpler contracts and a tool that reduces the costs of entering, living in and leaving a village to a single number (e.g. a comparison rental rate) rather than more paper.

RRVV thanks the principal researchers, Dr Sue Malta, Dr Maho Omori and Associate Professor Tim Kyng, Dr Nick Jans, Julie King and Rosemary McIndoe who assisted the team on behalf of RRVV, all RRVV members who completed the questionnaire, our partners, HAAG and COTA (Vic) and Dr Jean Tinney.

RRVV will publish the full report on our website (www.rrvv.org.au) once it is available.

Your operator and you Redefining the relationship

When you first read your residence contract (a document probably headed lease, licence or management agreement), you might have formed the impression that your operator was an all-powerful landlord and you were to be the humble tenant. Hopefully, this has not been your day to day experience. Nevertheless, many residents report that the landlord and tenant relationship lurks not far below the surface of their operator's organisation.

Some operators, despite the controlling tone of the residence contracts they offer, insist that the relationship is one of supplier and customer. On the surface, this seems a positive approach. Customers have well-understood rights. Moreover, businesses understand that they must satisfy their customers if they are to survive. However, national retirement village research published by villages.com.au in March 2018 found that only 37% of residents feel like a valued customer.

How do operators survive if so few of their customers feel valued? RRVV believes the answer lies in the nature of older Australians who have chosen to live in retirement villages and in the high cost of contract termination. Most of us like our life in our communities, even if we dislike our operator. Our relationship with our operator would have to be bad before we thought of enduring the loss of friendships and the stress of packing up and moving out. Those who do get to the point of wanting to move out rarely go ahead because, after paying the termination fees, they would not have enough money to buy another place to live. In short, we don't have the remedy of taking our business elsewhere that we do in most of our other commercial relationships.

The Retirement Villages Act does not define the relationship between operators and residents, but many of its provisions have a landlord and tenant flavour. The next phase of the review of the Act will focus on identifying alternative approaches to addressing some of the issues identified in the first phase. RRVV will be proposing a new relationship between operators and residents.

Most current residents:

1. Collectively stump up all of the capital employed in their villages
2. Are customers of the operator

3. Are deeply attached to the place they call home

The RRVV Committee argues that each of these points establishes that we are significant stakeholders in our villages. Taken together, the three points indicate that we are collectively major stakeholders in our villages and are therefore not subordinate to our operators. The appropriate relationship is one of partnership. Accordingly, the RRVV Committee will press the Government of Victoria to recognise residents as stakeholders. We will also press the Government to recognise that different villages have different degrees of interest in resident participation in community decision making, and that interest will vary over time. A one-size solution will not fit all.

As always, the RRVV Committee welcomes your feedback. Please email office@rrvv.org.au or write to RRVV, PO Box 2402, Caulfield Junction, 3161.

From the Beehive

A personal perspective



When I was a young bee living in my own home with my husband and children, I wrote many letters. In those days personal computers didn't exist nor did smart phones—yes, there are bees alive today who can vividly remember when there were no screens, TV or otherwise, you dialled numbers on a clunky phone to ring friends or local businesses, shopped at a small corner store, boiled linen in coppers, walked to school and used a passbook at the bank.

We learned at school how to write legibly; we learned about grammar; how to spell and

how to set out a personal letter. We posted letters, Christmas cards, birthday cards, bon-voyage cards and sympathy cards to all our friends.

At the Beehive, receiving mail is still anticipated pleurably - although these days more often than not the mail is a bill or an advertisement of some kind. Letters and cards from family and friends are rare but highly valued.

Recently at the Beehive the big bumblebees, for some unknown reason, decided to remove from every resident's mailbox all the individually addressed bills from a particular service provider. How dare they. Don't they know our privacy rests on the trustworthiness of those who handle our mail?

This breach of trust caused much angry buzzing, and a couple of brave resident bees challenged the big bumblebees. Tampering with personal mail is a Commonwealth offence. Resident bees demanded an apology from the big bumblebees and reassurance that this would not happen again.

How things have changed.

Now the younger generations communicate through texts on their smartphones or emails on their computers or and dozens of other similar apps of which I know nothing. If they want privacy, they use an encrypted service because they know all sorts of people snoop on the internet.

Young bees at one stage all seemed to have long white plastic tubing coming out of their ears. They were listening to music on their phones while walking alongside their mates, never opening their mouths to speak to each other.

It is possible now to order our food and just about anything else online. We don't even need to go into a shop and talk to the staff there.

There is a growing concern that people (not just young people) are losing the art of face to face conversation. Without the civilising effect of immediate face-to-face feedback, modern communications can descend into abuse. People can be hurt badly by this abuse, especially when published for all to see on social media or shared widely. Unfortunately, the perpetrators often think this is the new normal.

How different it is at the Beehive. Buzzing with each other is the norm here. Some buzzing can be hilarious, some undermining, some very enjoyable, some hurtful, some caring, some angry, some kind - but it is all human, one to one communication.

Sometimes it is difficult to avoid such conversations with other resident bees, in the car park, in the community room, at the hairdresser, in the dining room, in the mailroom, at the reception desk, at the café, in the bus, and the gardens

Living in a retirement beehive is like living on an island – isolated from the surrounding area. We often can't leave. But what we do have is a community – not perfect by any means - but very human.

I wonder what retirement beehive living will feel like in another ten to twenty years.

Your mail and your rights

Recently RRVV received two different questions on mail from members:

1. Is it legal for anyone – including management - to take letters and other material from a resident's mailbox without the resident's permission
2. Is it lawful for a resident or a residents' organisation (such as RRVV) to place printed material into residents' mailboxes

When our correspondent from the Beehive reported a case of management taking mail

from letterboxes, we recognised that there was more interest in the topic that we had understood.

Tampering with mail is an offence under the Commonwealth's Telecommunications and Postal Services Act 1989. The offence of tampering with mail includes, amongst other things, interfering with mail receptacles, stealing mail before delivery and opening someone else's mail without their authority. The closest offence relevant to the query passed to RRVV is: Tampering or interfering with letters or other articles that are being delivered by Australia Post.

The penalties for tampering with mail in Australia include a maximum prison sentence of five years. Whether the offender receives five years of imprisonment or a lesser punishment largely depends on whether the offender tampered with the mail with dishonest intentions or not.

If you accidentally open someone else's mail, this is not an offence. It is an offence to keep someone else's mail or to obtain it dishonestly, but if you open, by accident, mail wrongly delivered to your mailbox, you should not face criminal charges.

In the Beehive case, it seems the taking of residents' mail by the management was deliberate but whether there was dishonest intent is another matter. RRVV assumes there was not dishonest intent. Even so, management has no right to take mail individually addressed to residents and delivered to the correct mailbox. The Beehive residents have reasonable cause to complain. RRVV recommends asking for a written apology (see the article on apologies in the RRVV newsletter of September 2019).

In a recent case brought to RRVV's attention, a small group of residents placed a letter in the letterboxes of all the units in their village. The letter encouraged residents to vote

against a proposal by management due for consideration and a vote at the next general meeting. The village manager responded by sending a message to all residents asserting that only residents who first obtained his consent could place mail in other residents' letterboxes.

Putting addressed or unaddressed mail into letterboxes is not against the law and the practice is widespread in the general community. Most of us have received a lost pet flyer in our mailbox at some stage. Putting letters and notes into letterboxes is also common in retirement villages. For example, those of us who exchange Christmas cards with fellow residents do not buy stamps and post our cards at the local post office. We put them in our friends' letterboxes. Every quarter, RRVV places around 6000 newsletters in retirement village letterboxes. Some village managers do try to stop us. They almost always back off when we ask them to explain from where they get the authority to intervene?

What if people have a 'No junk mail' (or similar) sign on their letterbox? Junk mail is unsolicited advertising material, for a commercial purpose, not addressed by name to an owner or occupier of the premises. It is not illegal to place junk mail in a letterbox bearing a 'No junk mail sign', but signatories to the distribution industry's code of practice agree to comply with the signs. If you have a no junk mail sign on your letterbox and you still receive junk mail you might reflect on the effectiveness of industry self-regulation.

In RRVV's opinion, our members who dared to lobby against the proposal put to residents by their village manager were acting within their rights. Nevertheless, we recommend using some discretion. For example, if you know a resident is unwell and might be upset by the communication you are about to distribute, take care not to put a copy in his letterbox.

Disclaimer: This article is not and should not be taken or relied upon as legal advice. It is for guidance only, and readers should seek their own legal advice if they have any concerns relating to the issues raised in this article.

Speaking up about ethical issues

Most of us have heard about the well-known guiding principle for doctors, “do no harm”. Other ethics guidelines include “make things better”, “respect others” or “be fair”.

Those principles, or versions of them, are often enshrined in a company’s code of conduct and its regular reports to investors. The retirement living peak bodies refer to ethical concepts in their Code of Conduct.

But what does a violation of ethics look like? How can you identify and deal with ethical issues arising in your village?

What’s an ethical issue?

An owners corporation committee member votes in favour of a significant garden refurbishment project in an area of the village in which she lives. A bar volunteer serves free drinks to his mates. A kitchen volunteer takes home a tub of ice cream leftover from a village dinner. A resident verbally abuses a staff member. A sales manager signs up a new resident without informing her that the village does not supply the services she needs and expects. A village manager has the unit of the residents’ committee chair painted before others in greater need. An operator discovers it has accidentally overcharged all the residents by a small amount but takes no corrective action. A village owner charges some of his private company expenses to a village account.

Which of these count as ethical issues? All of them, in one way or another.

What can you do when you discover an ethical issue?

Acknowledge that the issue exists

Don’t rationalise it away. Don’t think “This is how things are nowadays” or “This isn’t a big deal.” If you experience something that makes you feel uncomfortable, it could be because it clashes with the principles by which you try to live your life. For most of us, it is worth listening to those principles.

Assess the scope and severity of the problem

Try to understand what’s at risk, both for you and your village. If you’ve noticed one of your neighbours putting a few teabags from the community centre in his pocket of from time to time, your “stealing from the village is not good” nerve might be tingling. But what’s the potential adverse outcome? A monthly cost to the budget of a dollar or two? He is committing an ethical violation, but it might not be worth reporting.

When considering whether or not to report something, you should also consider the repercussions you will face if you choose to report it, and if you decide not to report it and later the issue comes to light. In an environment where we are, for most practical purposes locked in, you might feel it is not worth risking your relationships with your fellow residents and with management.

The nature of the decision to report changes as the likely impact of the problem on life in the village goes up. If the issue is severe, you may feel a moral imperative to report, regardless of the risks to you.

In those more troubling situations, you should also realise that you could very well face criticism if you choose not to report and one of your fellow residents later finds out you were aware of the problem but said nothing. Repercussions for failure to speak up are most likely if you hold a leadership position within your village.

As you consider the scope of the impact, think about the following dimensions: your fellow residents, the likely impact on the annual budget and the services residents receive, the reputation of the village, and the effect on the resale value of village units. How many of those are affected? How big or pervasive is the problem?

Determine whom to talk to

Once you've identified the harm and decided it's worth bringing up, it's time to work out whom to talk to about it. If it's a relatively small issue, consider talking to the perpetrator, and do so in a non-accusatory way. How about, "Marty, what's up with those tea bags?". See if you understand his situation. If it really is an ethics violation, try to get the perpetrator to change his or her behaviour.

If the violation is of more significant concern, consider raising it with your village manager. Say something like, "I see X occurring, and it worries me. Does this worry you, too? If not, can you help me understand why?" Attempt to understand his perspective and ask yourself if it is reasonable and you just missed something, or if he is rationalising away the concern.

If your village manager is involved in the issue itself and you don't feel comfortable bringing it up with him, you may want to go above his head. If it's a serious issue that puts people at risk, you might want to go straight to someone higher up the chain of command.

If your operator has a reporting hotline, you can use it. Consider your safety throughout the process. Just because an operator has a "no-retaliation" policy doesn't mean it will always follow that policy, so there's no shame in reporting anonymously where that option is available.

The Retirement Villages Act complaint and dispute (i.e. an issue between residents)

resolution process (see Division 3 of the Act) is also available to you. The process does provide a structured approach to the resolution of complaints and disputes.

What to expect when you report an ethical issue

In RRVV's experience, most retirement village operators do give residents who raise ethical issues a hearing but don't expect instant corrective action. Some operators do act promptly, but many consign the problem to the too hard basket. Be prepared to follow up multiple times. Yes, persistence does usually pay off.

Nevertheless, some operators react negatively. For example, by saying something like:

1. Are you saying we are unethical?
2. We always comply with the law
3. Ethics is a matter of opinion, and we disagree with your opinion

Raising ethical issues does not necessarily mean that you are saying the other party is unethical. RRVV recommends taking care of how you phrase your concern to minimise the likelihood that the other party will see you as an accuser.

Complying with the law does not guarantee that a party's behaviour is ethical. The law sets the minimum ethical standards, not the most appropriate guidelines for every situation.

People of goodwill can arrive at different ethical positions on a specific issue. However, this does not mean that a difference of opinion justifies dismissing the other party's concern.

Good luck with raising your ethical concerns. When in doubt, keep it simple, channel your inner medical resident and do no harm.