TARRV

Tasmanian Association for Residents of Retirement Villages

TARRV: *Your Voice in Retirement*

Website: https://www.tarrv.org.au

NEWSLETTER No.5 **May 2024** EDITOR: Jon Hosford

From the President

I am delighted to extend a warm welcome to our new and existing members and to the New 2024Year.

Our membership continues to expand and we now have 528 members across 21 retirement villages. Membership growth for the sake of growth alone has limited value, however our recent experiences in negotiating changes to the Retirement Villages Act have shown that governments have listened to TARRV and noted TARRV's growing membership and the growth in the number of retirement villages represented. It is on this basis that TARRV will continue to work to increase our membership and village representation.

Our successful representations to government were essentially in two parts, firstly, and most importantly, the changes in regard to the increased transparency required of operators, including the following:

- The way CPI changes are calculated (based on the Victorian R V Act) and therefore the way maintenance fees may be increased, coupled the fact that increases above CPI will now require approval by 65% of those voting; a consequence being that operators will need to be more transparent and more adequately justify these increases to achieve a positive vote

- The legislated requirement for operators to produce detailed minutes of AGM's and to make those minutes promptly and readily available to the residents, noting that this has not always been the case in the past.

Secondly, the need for a full review of the Retirement Villages Act. This is acknowledged by both major political parties as well as positive support from those operators with whom I have had this conversation. Your TARRV committee has commenced the review, and we ask members to advise us on changes you feel are needed and/or matters of concern that may be addressed in any review.

In real life we don't always get everything we want and this also applied to a change we championed in the proposed legislative changes. The amendment to the R V Act Section 14(5) (a) and (b) we wanted to be amended was by the inclusion of the **highlighted** words as follows:
*"14(5)(a) if the retirement village was operating at any time during the previous financial year, a statement of income received from **all sources, including but not limited to,** residents and tenants, and **all** expenditure from that income, for the previous financial year; and*
*(b) a statement of estimates of income from **all sources, including but not limited to,** residents and tenants, and **all** expenditure from that income, for the current financial year;"*

TARRV will continue to push for these changes, so that income from both maintenance fees as well as income from deferred management fees and the expenditure from each become known. I note in this regard the attitude of *Consumer Affairs Victoria* ***where they state in their publication "Fees and charges - Living in a Retirement Village", under the heading "***Deferred fees, departure fees, and exit fees.

You may have to pay a significant amount when you leave a village. This may be called a deferred, departure or exit fee. There can also be recurrent fees that continue after you leave.

Such fees are one way that commercial retirement villages generate a profit, and *not-for-profit villages improve their services or subsidise recurrent charges paid by residents while they live in a village***."**

As part of our representations to the government, we provided the following statistics:

- Current TARRV membership statistics as at 25th October 2023 for the gender of residents across 18 villages and 444 members is: 143 men, 301 women; comprising 104 couples, 39 single men and 197 single women; 68% of the villages' population are women and 44% of the population are single women.

- 2021 PwC/Property Council Retirement Census "Snapshot of the Data" provides the following data for Tasmanian retirement villages:

Average national current resident ages are: (65 – 74) 7%, (75 – 84) 86%, (85+) 7%
Average resident age on entry into Tasmanian villages: 77 years
Average tenure of Tasmanian retirement village residents: 8.2 years,
Therefore, the average age is 77 + (8.2 ÷ 2) = 81.1years

- Long-term health conditions, from ABS, 2021 census.

The proportion of those with a long-term health condition increased with age:
61.4% of people aged 65-84 years had a long-term health condition, and
73.1% of people aged 85 years and over had a long-term health condition.

- According to the National Health in Britain, 26% of 80-year-olds have significant cognitive decline, while 17% have some form of dementia. This is on top of the failing ability most of us experience to stand up against aggressive people and to handle adversarial situations.

- We are formally regarded as vulnerable people, and in most situations an unrelated person interacting with us in any non-social situation is required to have a 'Working With Vulnerable People' certificate.

<u>Projects underway:</u>

- Assist in the resurrection of residents' committees.
- Village Insurances
- Review of the Tasmanian Retirement Villages Act
- Consider, in cooperation of other States, the potential for a uniform Australian Retirement Villages Act
- Differences in maintenance fees and deferred management fees for Not-For-Profits' vs For-Profits (noting Council rates for NFP's)

- Comprehensive list of Tasmanian Retirement Villages by location, including operator, operator website link, type of village
- Develop a series of definitions of different types of retirement villages, including Lifestyle (operator owns the land & communal facilities, resident owns the residence, usually via strata title), rental, operator owns all the property (resident has a lifetime tenancy)

Ian Green (President TARRV)

From the TARRV Treasurer

Since the January 2024 Newsletter, TARRV membership has increased to 550 from 23 villages. The new members were mostly from Cosgrove Cottages, Launceston, with a few from Northbourne Village, Scottsdale. It is the target of TARRV to increase membership further during 2024 and to this end visits will be made to retirement villages to introduce and present TARRV to the residents. There are over 60 retirement villages in Tasmania and residents of other villages need to be encouraged to join TARRV. Increased membership will emphasise to the State Government and other organisations representing the elderly that TARRV is the voice of retirement village residents.

It was approved by the Committee that membership applications after 1st January this year will be valid until 30th June 2025 and this has been applied accordingly.

Information will be sent to members in May this year regarding renewal of memberships expiring on 30th June 2024. It has been decided that the membership subscription will remain at $10 for singles and $15 for couples (occupying the same accommodation). The administration of incoming membership renewal payments will involve considerable time and effort and we would be grateful to members who are prepared to pay their renewals well in advance. These can be paid by bank transfer, cheque, or cash. Please make use of the Membership Renewal Form which will shortly be sent to members. Alternatively, you can send an Email advice to the Treasurer, treasurer@tarrv.org.au or a letter by post and indicate if you require a receipt for your payment. Receipts will only be issued if requested. If making payment by bank transfer, please ensure that your name and village is quoted. (TARRV Account: BSB 067-603, Account No. 1051 8413).

At the General meeting in Hobart in February 2024, the motion to introduce Life Membership was passed. This is set at $100 for singles and $150 for couples (occupying the same accommodation). Members can renew as Life members, if they wish, before their current annual subscription expires. Receipts will be issued automatically for such payments.

We are pleased to announce that the first Lifetime Membership application has already been received from a couple residing at Glenara Lakes Village and the TARRV President and Committee congratulate them on making this decision and for being the first to do so. We hope that the general membership will consider this option which, among other things, will reduce the administration of the renewal of annual subscriptions.

Dennis Smith, TARRV Inc Treasurer

Let's get aged care funding right

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Implementation of the new Aged Care Act has been delayed, giving time for the government to work through the detail of funding changes, NSA CEO, Chris Grice, writes.

The Federal Government has signalled a delay in implementing the new Aged Care Act, which should give it time to nut out the details of any changes to funding arrangements.

It comes only weeks after the Aged Care Taskforce's final recommendations were made public and five years since the previous government responded to the final report of the *Royal Commission into Aged Care Quality and Safety*.

As the Royal Commission noted, meaningful change cannot happen without sustainable funding. Where this funding will come from has been a key stumbling block in a complex reform process.

As we reported recently, the Taskforce released its **final report** outlining 23 recommendations on March 12.

This as an important milestone on a long road towards a safe and quality system of care, but the next step – designing the changes in detail for legislation – will be the most important and most fraught because these changes will be carefully scrutinised by parliament.

Taskforce recommendations

The Taskforce report addresses the key question of *where* the additional funds will come from to improve the system.

According to the Taskforce report, government plays a significant role in funding aged care. Around 75% of the *total cost* of residential aged care is funded by the Federal Government (via general revenue), with the Federal Government funding 95% of the total cost of home care services.

With greater numbers of older people and many living longer, government revenue will need to grow to pay for this. The Taskforce has advised against a levy or other taxes, citing intergenerational fairness and cost-of-living concerns.

Instead, it focuses on expanding existing co-contribution arrangements for those who can afford to pay, but with a strengthened safety net for those who cannot.

It’s important to note, some people already contribute significantly towards the cost of residential care, notably for everyday living costs, such as food and accommodation, depending on their financial circumstances.

The Taskforce report makes it clear that government must be the main funder of direct care services such as nursing care and that any increases in co-contributions focus on non-care living costs.

It points out these are costs people pay for themselves throughout all stages of life.

It also recommends any changes to co-contributions be grandfathered for those already in residential care and any changes to co-contributions in home care occur only as people's needs change.

While the report provides a general roadmap for funding reform, there are details about how changes to co-contributions will work in practice.

National Seniors response

The Taskforce recommendations are not the final word and have to be considered by the government.

While some seniors have told us they are willing to contribute more, this is only if changes are reasonable, fair, and result in higher quality care.

In this regard, National Seniors believes the Federal Government should consider the following:

- The government must continue to consult about changes to funding arrangements, especially those related to co-contributions.
- Any changes to co-contributions must be reasonable, introduced incrementally and be grandfathered for those already in the system
- Further transparency and accountability measures must be put in place to ensure funding, especially consumer contributions, are spent wisely and efficiently.
- Care services should be of the highest quality for all older people accessing aged care, regardless of their ability to co-contribute.
- There is a need to broker multi-partisan support for funding reform, because fixing aged care must be above politics.

In terms of transparency, providers should be required to open their books to forensic auditing to restore confidence in their management of funding.

If these things can be delivered, the government will have the best chance of gaining community acceptance. And older people will have the best chance of receiving the care they need and deserve.

Where to from here?

While we are disappointed the implementation of the new Aged Care Act will be delayed, we hope this delay will be limited.

Older people have waited long enough for their rights to be enshrined in a new Act with a focus on human rights and quality care.

The Federal Government should use this time wisely to improve the Act and consult on any changes to funding arrangements.

It is a crucial moment to simplify overly complex funding arrangements, to ensure fairness, transparency, and accountability and to strengthen protections for older people.

For example, the new Act should ensure a focus on human rights and greater financial transparency. It should also include an independent Complaints Commissioner sitting outside the existing Aged Care Quality and Safety Commission, reporting directly to the Minister.

NSA will engage closely with the government as it deliberates on how to implement new funding arrangements and other legislative changes within the new Act, so watch this space.

Author

Chris Grice National Seniors Australia Chief Executive Officer

Ageing Gracefully

- What did one senior mountain climber say to the other? We're finally over the hill!
- Getting older is a real picnic - just one where everything is aged to perfection.
- You know you're a senior when finding your glasses becomes an all-day task.
- I decided I wasn't going to let getting older slow me down. But my body had other plans.
- In my days there was no Uber Eats. If you were hungry, U-ber packing your lunch!
- When cars get old, they're classic. When cheese gets old, it's blue. What do they call people when they get old? Old people.
- What do expired cake mix and seniors have in common? They both have a hard time rising!
- They say kids have selective hearing, but seniors do too - we just turn our hearing aids off.

Introducing Mr. Robert Hegarty

We are pleased to be able to inform members that Mr. Robert Hegarty of Douglas and Collins, Launceston, has agreed to advise and assist TARRV in respect of legal problems and matters confronting our membership. This will be by way of advice to the TARRV executive, but in these circumstances Douglas and Collins will not be acting for or representing individual members.

Douglas and Collins is one of Australia's oldest law firms and was established in 1838. They provide legal services including, but not limited to, property and conveyancing, litigation and disputes, and wills and estates.

Mr. Hegarty graduated from the University of Tasmania in December 2007 with a combined degree in Commerce and Law and obtained a Graduate Diploma of Legal Practice in 2008. He joined Douglas and Collins in 2009 and became a director of the firm in July 2017. His major areas of practice, of particular interest to our members, include wills and estate planning, powers of attorney and enduring guardianship as well as sales and purchases of property and businesses. He is a member of the Law Society of Tasmania's Council.

TARRV can utilise Mr. Hegarty's expertise, as appropriate, but, for personal legal requirements, members are invited to contact him for advice and representation. Contact details for him and the company are provided hereunder.

Mr. Robert Hegarty, Director

Douglas & Collins, 9-13 George Street, Launceston 7250

Tel: 6332 3400 Email: roberth@douglascollins.com.au

Retirement Village Legislation Matters

note this list is neither exhaustive and is a guide only

Increase in Recurrent Charges

1. CPI Calculations

A recent change to the Retirement Villages Act brought in a clarifying method to calculate and apply the Consumer Price Index (CPI) to maintenance fees ('recurrent fees'). By way of background the formal definition as set out by the Australian Bureau of Statistics reads: *"In Australia, the CPI measures the changes in the price of a fixed basket of goods and services, acquired by household consumers who are resident in the eight State/Territory capital cities,"* and, *"Indexes are published for each of the eight State and Territory capital cities"*.

Section 14A of the Act sets out the way in which any increase in recurrent fees may be calculated and at sub-section (4) reads as follows:
*"the **CPI increase amount** for recurrent charges is the amount of increase in the recurrent charges that would result from the recurrent charges being increased by the percentage change between –*
(a) the average of the CPI figures for Hobart in respect of the 4 quarters immediately preceding the meeting; and
(b) the average of the CPI figures for Hobart in respect of the 4 quarters immediately preceding the 4 quarters referred to in paragraph (a)".
The formula therefore for calculating the CPI increase amount is:

$$\text{Annual indexation} = \frac{\mathbf{A - B}}{\mathbf{B}}$$

Where A = (a) as above, and B = (b) as above
A worked example for the year ending 31 December 2023 is as follows:

Quarter Average	June 2023	Sept 2023	Dec 2023	March 2024	
CPI number **A**	134.6	135.8	136.8	138.1	136.3 =

Quarter Average	June 2022	Sept 2022	Dec 2022	March 2023	
CPI number **B**	127.6	130.5	132.4	134.0	131.1 =

Annual indexation = (136.3– 131.1) ÷ 131.1 = 0.03966 = 4.0%

Thus, in this example, if your current daily maintenance fee is $20.00 it will increase by 4.0% to $20.80 and for a daily maintenance fee is $23.00 it will increase by 4.0% to $23.92. It is very pleasing to note that a major operator has already demonstrated that they are using the new formula.

2. What are the items in the CPI March 2024 "Basket", and noting any changes to these effect the size of the CPI

Food and non-alcoholic beverages

Alcohol and tobacco

Clothing and footwear

Housing

Furnishings, household equipment and services

Health

Transport

Communication

Recreation and culture

Education

Insurance and financial services

3. Written Documentation

Section 14A, sub-section (2) sets out the things the retirement village operator must do and must provide in order for the residents to approve, or reject the proposed increase, as follows:

- Provide to residents, at a properly convened meeting, a **written explanation** that demonstrates that **the increase in recurrent charges is reasonable** in the circumstances, having regard to the **accounts for the previous financial year** and the **estimates for the current financial year**;

Note: this does not approve the use of estimates for the previous financial year and the expenses **must** relate to that village; this appears to infer that any proportional share of "head office" administration charges must show how that share is allocated to each particular village.

4. Voting on the CPI increase, voting on increases proposed in excess of CPI

Section 14A, sub-Section (3) of the Act states:

- If the **proposed increase** exceeds the calculated CPI increase, then that increase **must** be approved by **at least 65%** of the residents and tenants voting, either personally or by proxy, and entitled to vote at the meeting;
- However, the increase does not require approval, if the amount is because of an increase in rates & taxes; an increase, in an award, of salaries & wages of village staff; an increase in insurance premiums or insurance excesses. It should be noted at this point that the insurance item is one of the items ALREADY in the "CPI basket", is this potentially "double dipping" and what if only part of the excess is related to an increase in rates & taxes; an increase, in an award, of salaries & wages of village staff; an increase in insurance premiums or insurance excesses?

It is interesting to note the contents of Section 14A, sub-section (6), which confirms the reporting requirements to support an operator's proposed increase, where it states: *"Any increase in a recurrent charge by the operator of a retirement village that does not comply with this section is void and is not payable by the residents of the retirement village unless the Tribunal has ordered that the increase take effect under section 14B."*

5. Village Insurance

Section 20 of the Retirement Villages Act sets out the requirements for the operator to insure the village and to keep it **insured to its full replacement value.**

Minimum requirements cover the following (extract from Section 20):
"(a) damage;
(b) costs incidental to the reinstatement or replacement of insured buildings;
(c) public liability;
(d) the reinstatement of property to its condition when new."

A question that has arisen concerns any excess payable in the insurance policy*,* SureWise.com.au states: *"An excess (also known as a deductible) is an amount the policy holder must pay if they proceed with making an insurance claim on their insurance policy. It's the first amount payable by the policy holder in the event of a loss and is referred to as the uninsured portion of the loss."*

Perhaps another way of looking at "excess", it is that part that the village operator has agreed to pay on an insurance claim, it is that part that they have negotiated that they "self insure"? The question is *"can the excess be charged to the resident whose home or an item in that home that is the property of the village operator has been damaged"*.

Another component to be considered is "can the resident insure any excess the operator requires?" Essentially, if the village operator's policy excess is say $4,000, it can be argued that most of the chattels, fixtures and fittings provided by the operator are uninsured from the resident's point of view.

The Queensland Government publication "Regulatory Guidelines for Retirement
Village Scheme Operators Version 1.0 Release date 08/08/2022" sheds further light on this matter and in the preamble states: *"The purpose of this document is to provide guidance to retirement village operators about:*
 Insurance Excess Payments – which retirement village fund an insurance excess
payment should be paid from (general service fund, maintenance reserve fund or capital
replacement fund)". It does not mention residents and, so far, no document has been located that makes provision for an excess to be paid by a resident.

Some Other Areas of Legislation

1. Residential Tenancy Act 1997

This Act does not directly affect residents of retirement villages, but a comparison with some activities undertaken by operators of retirement villages with some of the provisions of the Residential Tenancy Act are interesting. It is noted that in at least one retirement village, prospective residents are being shown a dwelling, told the minimum ingoing contribution then advised that the person(s) who offer the highest ingoing contribution will become resident(s).

Compare this with the following section from the Residential Tenancy Act, as follows:

"16B. Rental properties to be advertised and offered at fixed rental price

(1) The owner of residential premises –

(a) must not advertise the premises for rent, or offer the premises for rent, at a price that is not a fixed price; and

(b) must not invite a prospective tenant to make an offer to become a tenant of the premises at a price higher than a fixed price advertised or offered by the owner."

2. Anti-Discrimination Act 1998

The Anti-Discrimination Act 1998 places obligations on all Tasmanian organisations/employers to take **'reasonable steps'** to ensure that all its members, officers, employees, and agents are protected from discrimination and harassment in the workplace.

Under the Act, it is discrimination when a person is **treated less favourably** (worse) than other people because they have a particular characteristic, such as their age, race, sex or disability. It is also discrimination when a person is disadvantaged compared to other people because they have a particular characteristic.

An example could be a retirement village where the roads and/or footpaths are not suitable for a person using a walking frame, or a person in a wheelchair. Until this is rectified, the disabled persons cannot move freely and safely through the village, they are discriminated based on their disability.

3. Work Health and Safety Act 2011

This Federal Act, whilst very much is concerned with worker safety, but also for the safety and welfare of persons potentially affected by works undertaken. The following Section 19 (2) is relevant:

Division 2 – primary duty of care

19. Primary duty of care

(1) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, the health and safety of:

(a) workers engaged, or caused to be engaged by the person; and

(b) workers whose activities in carrying out work are influenced or directed by the person; while the workers are at work in the business or undertaking.

(2) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that ***the health and safety of other***

***persons is not put at risk from work carried out as part of the conduct of the business or undertaking*.**

4. Australian standards

What is the Australian standard for wheelchair access?

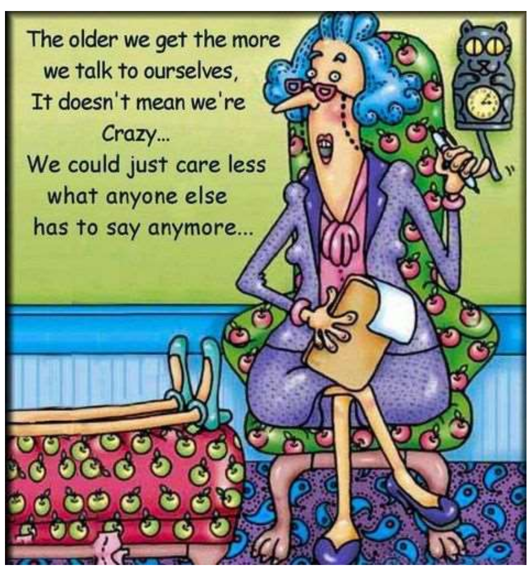
The Australian standards for wheelchair access are provided within AS 1428.1, also known as *Design for access and mobility, Part 1: General requirements for access - New building work.* The BCA and Premises Standards reference AS 1428.1 to specify how to meet their performance standards.

It is important to note that the **aim** of the wheelchair accessibility standards is to provide wheelchair users clear, continuous access paths and multi-directional space to manoeuvre in and use the building as intended.

5. Road Design Parameters

The Local Government Association of Tasmania has produced a set of Tasmanian Standard Drawings; these provide the applicable designs for pedestrian & vehicle cross-overs.

All roads where the public can access (including ‘private roads, e.g. supermarket car parks & retirement village roads) are subject to the Road Rules and the Anti-Discrimination Act 1998.



Tasmanian Association for Residents of Retirement Villages Inc

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Name(s): ....

Residential/Postal Address: ....

....

Contact email(s): ....
(Please **PRINT** clearly)

Signed: .... , date: ..... /..... / 202....

Membership type (please tick your preference): Single: ☐ Couple: ☐

Annual Subscription (for the period ending 30th June ’25)
Single: $10.00 p.a.; Couple: $15.00 p.a.

Lifetime Subscription (one-off payment): Single: $100, Couple: $150

Please indicate your payment method: cheque ☐ or, bank transfer ☐ or, cash ☐

Receipts will be provided on request

The completed subscription renewal, together with your remittance should be posted, or emailed, to:

- The Treasurer, TARRV, P O Box 158, Kings Meadows, Tas., 7249,

or emailed to the Treasurer at: treasurer@TARRV.org.au

- Payment may be made by bank transfer to CBA Account name: **TARRV**, BSB: 067 603, Account Nº 1051 8413, the transfer must have your name included as the reference on the banking transaction and the completed Membership Subscription posted or emailed to the Treasurer at the above address.
- **Note: the subscription of members who paid after 1st January 2024 is valid through to 30th June 2025 and thus this form is not required**