Audit Outcome Report

Retirement Villages Act 2004 Audit

September 2026 | Version 1.0

Consumer Affairs Tasmania
Department of Justice

Consumer Affairs TASMANIA

Tasmanian Government

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Proactive Compliance Team Summary Report

Summary

The audit reviewed 24 operators and found that most operators were generally meeting their key obligations under the *Retirement Villages Act 2004* (the Act). These included maintaining annual general meetings, audited financial records, insurance arrangements, complaint handling processes, accessibility measures, refurbishment practices and repayment procedures for ingoing contributions. However, several compliance gaps were identified.

The audit confirmed concerns previously raised by stakeholders regarding varying levels of understanding of obligations under the Act, particularly in relation to the recent legislative amendments governing recurrent charges and annual meetings.

Information gathered through the voluntary invitation process highlighted significant diversity across the sector, including variations in governance structures, village size, resident numbers, tenancy arrangements and operating models. Both for-profit and not-for-profit operators were represented. This information provided useful context regarding operational practices across the sector and assisted in identifying common approaches, governance structures and areas of industry good practice.

The auditees have been de-identified in this report due to confidentiality requirements for the publication of this audit outcome.

Background

Consumer Affairs Tasmania (CAT) is a business unit within the Tasmanian Department of Justice. CAT incorporates areas of consumer affairs, residential tenancy, occupational licensing, and electricity and gas compliance and standards.

CAT provides advice and assistance with topics including consumer services such as shopping and trading, renting, electrical and gas safety. CAT also licenses, registers and regulates a range of occupations in the building and construction industry, motor vehicle traders, conveyancers and security employees.

The Proactive Compliance Team (PACT) supports CAT in strengthening regulatory compliance through remote and on-site audits, prioritising education where possible and exercising compliance powers when necessary.

The purpose of this audit was to measure rates of compliance by retirement villages as well as to compile additional information about the sector to inform future policy and regulatory initiatives. CAT delivered information and advice to village operators where necessary and no enforcement action was taken as a result of these audits.

Jurisdiction

The audit was undertaken in accordance with the authorities granted under the *Retirement Villages Act 2004* (the Act) and the *Consumer Affairs Act 1988.*

Use of Compliance Powers

All CAT officers undertaking the audit were authorised officers appointed by the Director under section 13 of the *Consumer Affairs Act 1988*.

Audit Particulars

The audit assessed rates of compliance of 24 village operators with obligations contained within the *Retirement Villages Act 2004*, including:

1. Section 6: Information and documentation required to be provided to prospective residents.
2. Section 14: Annual general meeting requirements.
3. Section 14A: Increases to recurrent charges.
4. Section 21: Village rules requirements.
5. Requirements relating to ingoing contributions, refunds, reinstatement processes and resident protections.

The audit was conducted remotely and involved retirement village operators identified through CAT stakeholder records and industry research. The audit included a review of contracts, village rules, Annual General Meeting (AGM) documentation, financial records, insurance documentation, resident information packages and supporting evidence provided by operators.

Key Findings/Trends

The audit did not identify sector-wide compliance concerns. Instead, the strongest overall finding from the audit was not widespread non-compliance, but inconsistent understanding and implementation of newer legislative requirements.

Most operators provided required documentation to prospective residents prior to entering residence contracts. However, several operators were using outdated Schedule 2 notices that did not include section 14C of the Act, or were unable to demonstrate that all required documentation had been provided before execution of a contract.

All retirement villages must have village rules in place which set out the rights and responsibilities of operators and village residents. The audit found some villages' rules did not meet the requirements of the Act, by failing to consider visitor arrangements, dispute resolution processes, quorum requirements or resident governance matters.

All operators held annual general meetings and most maintained adequate meeting minutes. However, supporting documentation did not always demonstrate required financial information was distributed to residents within legislated timeframes. Several AGM notices also lacked clear information regarding resident questions submitted prior to meetings.

The ways village operators handled questions from residents as part of AGMs varied significantly. While most operators stated questions were answered and recorded

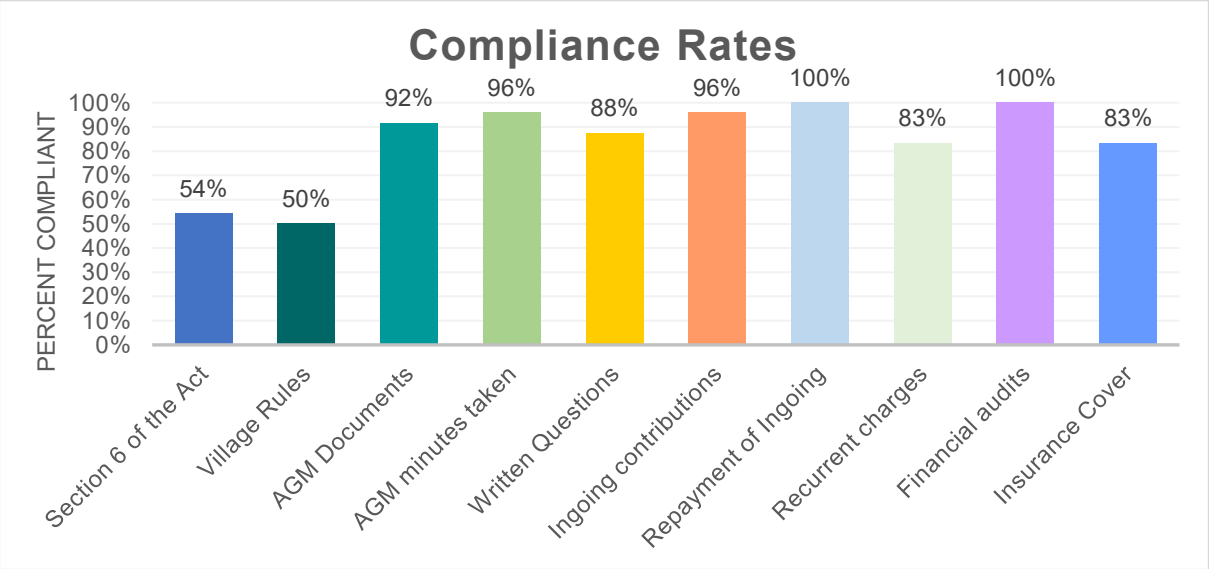
appropriately, some operators had not clearly documented their processes or demonstrated compliance with legislative requirements.

Most operators maintained audited financial records and insurance arrangements. However, supporting information for minimum insurance requirements and management of resident funds was not always sufficient to confirm full compliance.

Operators generally demonstrated appropriate processes regarding resident complaints, refurbishment of units, accessibility considerations and repayment of ingoing contributions.

Information gathered through the voluntary invitation process highlighted significant diversity across the sector, including variations in governance structures, village size, resident numbers, tenancy arrangements and operating models. Both for-profit and not-for-profit operators were represented.

The audit confirmed concerns previously raised by stakeholders regarding operators' inconsistent levels of understanding of the obligations placed on them by the Act, particularly in relation to the recent legislative amendments governing recurrent charges and annual meetings.



Conclusions

Compliant/Positive Audit Outcomes

Operators generally engaged positively with the audit process and provided extensive information and supporting documentation.

Most operators demonstrated an understanding of their obligations under the Act and were willing to undertake corrective action where deficiencies or non-compliances were identified.

The audit provided CAT with valuable baseline data regarding retirement village operations across Tasmania, improving understanding of the sector and supporting future regulatory activities.

Most operators maintained formal dispute resolution processes, resident engagement mechanisms and procedures for handling resident concerns and complaints.

The audit strengthened engagement between CAT and retirement village operators and provided opportunities to deliver education and guidance regarding compliance obligations.

Most villages demonstrated reasonable processes relating to resident safety, accessibility, refurbishment activities, insurance arrangements and management of resident funds.

Non-Compliance/Negative Outcomes

46 per cent of operators were unable to fully demonstrate compliance with the disclosure requirements as required under section 6 due to missing, outdated or incomplete documentation. However, half of those operators were missing only section 14C from the schedule, which has been a requirement since the implementation in November 2023 of the *Retirement Villages Amendment Act 2023*.

Village rules often failed to include guidance for all matters required by the Act, particularly dispute resolution, visitor arrangements and quorum requirements. 50 per cent of operators did not have, or did not provide authorised officers with, a fully compliant set of village rules.

There were two instances where operators did not provide sufficient evidence to demonstrate compliance with AGM notice timeframes and resident question requirements.

Five operators, equating to 21 per cent of auditees, relied on procedures that appeared inconsistent with the amended provisions governing recurrent charge increases, including circumstances where written explanations or resident approvals could not be clearly evidenced.

Supporting evidence relating to insurance coverage, trust account arrangements and financial management practices was incomplete for four audited operators and required further clarification.

The audit identified varying levels of knowledge and understanding of legislative requirements across the sector, particularly among smaller operators and villages with low resident turnover.

After completing the audit and compiling the data CAT provided feedback to each operator by noting matters of non-compliance with legislative obligations. This information will be retained to inform future compliance decisions.

Invitation Questions

Alongside auditing compliance with the legislated requirements of the *Retirement Villages Act 2004*, CAT invited operators to complete an optional set of questions to provide additional operational context. Seventeen operators responded. The

responses provided valuable insight into governance arrangements, operational practices and industry approaches across the retirement village sector.

This information provided useful information regarding operational practices across the sector and assisted in identifying common approaches, governance structures and areas of industry good practice.

Responsibility for Compliance

Responsibility for compliance was generally assigned to senior personnel within organisations, including chief executive officers, village managers, senior leadership teams, and dedicated compliance, legal, risk or governance staff. Larger operators typically maintained formal, centralised compliance frameworks supported by specialist teams, while smaller organisations relied more heavily on local management and board oversight.

Organisational Structure

Both for-profit and not-for-profit operators participated in the invitation process, with several respondents identifying as registered charities. Most operators reported maintaining formal governance structures, employing dedicated staff and management personnel, and operating under established organisational frameworks.

Financial Management

For operators that also provide aged care services, retirement village finances were generally managed separately from aged care operations. Common approaches included maintaining separate accounting records, cost centres, budgets or profit and loss statements to distinguish retirement village activities from other business functions.

Access to the Act

Most operators advised that copies of the Act were accessible to staff and residents either in physical form, electronically, or upon request. A small number of operators indicated they relied solely on online access to legislative materials.

Resident Profile

The size and composition of retirement villages varied considerably among respondents. Villages ranged from small facilities accommodating approximately eight residents through to larger villages with more than 130 residents. While some villages consisted entirely of retirement village residents, others included significant numbers of tenants or occupants in social housing arrangements.

Insurance Claims

Insurance claims relating to buildings and public liability matters were most commonly managed through centralised organisational processes. Responsibility for insurance excess payments generally depended on the circumstances of the claim, particularly whether the resident was considered responsible for the loss or damage.

Operators consistently indicated that insurance for residents' personal contents remained the responsibility of individual residents.

Complaints and Dispute Resolution

Most respondents reported maintaining formal complaints handling and dispute resolution procedures. Complaints were generally managed initially at the village level before escalating, where necessary, to senior management or governing boards. Operators also identified a range of external dispute resolution avenues, including CAT, the Commissioner for Corporate Affairs and tribunals or other regulatory bodies.

Accessibility and Safety

Operators consistently advised that village infrastructure, including roads, pathways and communal facilities, was maintained with consideration for elderly residents and persons with mobility limitations. Many operators reported undertaking regular inspections, maintenance programs, safety reviews and audit activities to support accessibility and resident safety.

Spouse Remaining After Death of Resident

Where a resident dies and a spouse or partner remains in occupation of the unit, the most common approach reported by operators was for recurrent charges to continue unchanged, as these fees are generally attached to the premises rather than the individual resident. Operators also indicated that refunds of ingoing contributions are typically deferred until the final surviving resident permanently leaves the unit or dies.

Strata Schemes

Most respondents advised that their retirement villages do not operate under strata title arrangements. However, a small number of operators reported mixed models incorporating both strata-titled properties and leasehold retirement village arrangements.