

# TRANSCRIPT

## STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

### Subcommittee

#### Inquiry into the retirement housing sector

Melbourne — 16 November 2016

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#### Witness

Ms Ronda Held, Chief Executive Officer, Council on the Ageing Victoria.

**The CHAIR** — Our next witness is Ms Ronda Held, the chief executive officer of the Council on the Ageing Victoria. Thank you very much for joining us this afternoon. Before I invite you to make some opening remarks, I will just caution that all evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things those comments may not be protected by this privilege. We have allowed about half an hour or so for our time this afternoon. I invite you to make some opening remarks and thereafter we will have questions. Thanks for being with us.

**Ms HELD** — Thank you for the opportunity to present. I guess from our perspective as COTA Victoria, on the experiences of older people with retirement villages, these experiences come from COTA's contact in providing the seniors information service and other programs with thousands of older people each year. COTA, for those who do not know, stands for Council on the Ageing. We are the primary organisation representing the interests of older Victorians. We seek for a just, equitable and inclusive society where people's human rights are respected, and our role is to advocate for, resource and mobilise older people to create an age-friendly Victoria.

As you might be aware from our submission, there were five themes that came out of our work with senior Victorians. I am not going to go over these because they have been in the submission but will just headline them: the consumer feedback that we have had; the issue of standardised contracts; the improved management standards; improved dispute resolution; and the deferred management and exit fees. I would like to focus on the feedback and the dispute resolution components, because I know other consumer groups have looked at the other areas. I would also put it in the context that I have only been in the role of CEO of COTA Victoria for five months, and Donna, who has done most of the work on this area, is in Canberra at our national policy council today, so I might not be able to answer all your questions, but I will try.

Really, as background to these issues, I would like to address for a moment the issue of ageism in our community, which has been a big focus of COTA's. You may be aware the human rights commission in 2013 conducted an inquiry into age discrimination, which found widespread discriminatory attitudes and behaviours that stem from negative stereotypes and misconceptions about older people. Some of these more destructive stereotypes foster a view that older Australians are all the same, they are unable to learn or change, they complain a lot and they are likely to be sick, victims of crime and an economic burden on society. Of course we know the reality is very different in terms of the contribution that older people make to our community.

In those responses people felt age discrimination was likely to occur in the workplace, in retail or business situations and in social situations. Almost half of all Australians feel that discrimination is present within the healthcare system, within government policy and in access to services, and more than a third of Australians aged over 55 have experienced age-related discrimination. The most common types are: being turned down for jobs, being ignored, being treated with disrespect and being subject to jokes about ageing.

The four areas where older Australians reported discrimination were: service invisibility — being ignored because people do not see value in spending time with the older person; product invisibility — being overlooked for products that suit them; relationship invisibility — feeling like a burden on family and friends; and cultural invisibility. The reason I raise this is that although COTA does and has presented to the inquiry a number of complaints about people's treatment in retirement villages, I would posit that the actual number of concerns is probably a lot greater and there is likely to be a much higher level of discontent because of older people's reluctance to complain, and we certainly hear that as well. They do not complain because they do not think they are going to be taken seriously, they feel fear for their security of tenure, they do not want to be seen as a burden or not coping by the village or by their families, and they feel vulnerable and not on an equal power basis with the village operators.

When retirement villages were first being initially marketed they were 'over-55 lifestyle options'. The reality now is the average age of entry is 76 years, and 32 per cent of people enter villages aged 80 or above. We know from all of our discussions with older people that they want to stay at home for as long as possible, and if they cannot manage in their family home, they still want to be as independent as possible. People leave their homes because they need to downsize, they cannot manage, or they are concerned about their future health. They like villages because they can stay independent, have a safe environment, have emergency support and access the facilities.

What I am getting to is that while many retirement village residents are active and vibrant, villages are also experiencing people with vulnerabilities or who fear vulnerability, so it is really crucial that there are adequate

consumer protections in place for those groups. Some of the examples — and I think they were included in our submission — are: one person was experiencing violence from another resident, did not know where to go and complain, so she came to our information service and did not realise she could talk to consumer affairs; people who had their payment options changed, so being forced to use direct deposits et cetera and asking if that was legal; concern that management were not taking notice of the concerns of residents, that they had tried everything, they had used community legal services and were not really getting where they want to go. One talked about managers constantly harassing and abusing her and that she had contacted several lawyers but received no help. Somebody experienced a fall due to lack of maintenance of a pathway and poor lighting and had an unsatisfactory response. One pays a maintenance fee but had had no maintenance done. She said she moved to the village so there would be no worries, but she was actually having more worries because she could not get her concerns addressed.

So the impact of people having these issues and the subsequent battles to have the issues addressed — so it is not just having the issues but not being able to get them resolved — really does affect older people's physical and mental health. I think the industry has both risen to respond to these vulnerabilities but sometimes can also take advantage of these vulnerabilities within people.

So COTA would support definitely a better process for independent dispute resolution. We support some of the calls that have come from our joint submission with other bodies for an ombudsman in the retirement village sector, and we also see that there need to be more robust consumer protections built into the regulatory framework. In particular the change is required to the VCAT process. It is slow, potentially costly and very stressful for senior Victorians, and an ombudsman would be seen to be more approachable and more independent.

Just personally as someone who has been involved for a number of years in the energy sector as part of the board of the Consumer Utilities Advocacy Centre and more recently on the Energy and Water Ombudsman Victoria board, we have seen over that time the effectiveness of that model, so in using the alternative dispute resolution process that is funded by industry we know it is impartial, it is informal and it is quick. They provide advice, information and referral on general inquiries, but they also very much identify systemic issues and report these to both the industry and to regulators so they can be addressed. They publish information about trends. They work with companies, regulators and consumer groups to drive customer service improvement and help prevent complaints. So in the last couple of years between 2013–14 and 2014–15 we have seen a 40 per cent reduction in complaints about utilities issues coming to the ombudsman.

We also think that better training for retirement village staff and management is one way to improve the situation for resolving complaints and to work in a more collaborative way with retirement village residents. COTA very much promotes co-production and co-design and working constructively with residents groups. We think there could be a lot more skills developed in that area to again be more preventative about addressing complaints. That is my opening statement.

**The CHAIR** — Thank you very much for that. I just want to pick up on where you talked about training. I noticed your comments on that in the submission. We have heard from the property council and there has obviously been some work done, but we have also heard from others that perhaps that needs to be taken further and that the current training regime is still pretty short and limited. Could you perhaps give some further comments about where training is required?

**Ms HELD** — Yes. As far as I am aware there is no mandated approach at the moment. I know just from consumer inquiries that they do not feel people have necessarily got the skills to work with older people. So they might be recruited for other skills. I guess it comes at the beginning around how do you describe the job profiles of people who are village managers and are they just managing a business or are they actually working with older people and do they need those skills, and also with staff. Not in Victoria but working with COTA Australia we also had some incidents of actual sexual abuse of residents by retirement village managers. Again, maybe those protections around the screening of people going into those roles are not adequate either.

**Mrs PEULICH** — Thank you very much. The evidence received from successive witnesses is also that the cost of any system and regulation of industry would actually reduce the attractiveness of investing in the industry. There was concern about the underinvestment in the sector, given the growing population, and the need to look at other provisions of housing for other groups, both in the public and the private sector and how it impacts on this particular area. My view is that more competition would make the retirement sector more

responsive to its clients and residents. I have just a few questions in relation to your submission. Has the introduction of standard contracts in 2014 affected the sector in Victoria?

**Ms HELD** — I cannot comment particularly on the standard contracts. I think that more generally around contracts and older people, certainly having worked a lot in the home care area, the standard contracts are still very difficult for people to understand if you do not have someone take them through it and really explain it to them, even if they are in plain English, and also explain the consequences of what they are signing up for, then they do not necessarily address the issues. I know in aged care generally there is a need for much more guidance through that process for vulnerable older people so they really understand what they are getting into.

**Mrs PEULICH** — I am sure that a similar challenge exists with the rest of the demographic. The number of people who do not seek legal advice and buying a home is substantial.

**Ms HELD** — That is right. Yes, absolutely.

**Mrs PEULICH** — Are you aware of the Lifemark accreditation scheme for retirement villages?

**Ms HELD** — Yes, vaguely aware.

**Mrs PEULICH** — Are you able to comment on that?

**Ms HELD** — Not really, sorry.

**Mrs PEULICH** — You said that an ombudsman was seen to be free, speedy and fair.

**Ms HELD** — Impartial, yes.

**Mrs PEULICH** — Of course it is not free because it has got to be paid for by the industry —

**Ms HELD** — No, because it is a cost to industry.

**Mrs PEULICH** — or another means —

**Ms HELD** — Yes, absolutely.

**Mrs PEULICH** — which ultimately is a cost that is passed on to the consumer.

**Ms HELD** — Yes.

**Mrs PEULICH** — Are you wedded to the ombudsman as a concept or to some other effective means of conflict resolution?

**Ms HELD** — I think the ombudsman is a very good approach, and particularly to circumvent using the VCAT process.

**Mrs PEULICH** — VCAT is obviously a failed system because it certainly is not a people's court any longer.

**Ms HELD** — No. I mean, it could be that the ombudsman could be incorporated into another service potentially. There are some options around various programs that operate around aged care potentially, but I think the model itself and the way it operates, while it is a cost to industry I think the EWOV example really proves that if it works well, that cost can be reduced. So if the industry is doing the right thing and they are not getting complaints, it is not going to cost them anything. So it is a pay for —

**Mrs PEULICH** — I am not sure about that. There are lots of complaints to the ombudsman that do not go anywhere and do not have any legs. They still need to be processed.

**Ms HELD** — They do, but the costs could certainly be reduced if those complaints are reduced. Again, better skills at working with residents and preventing disputes would certainly be one thing that having to pay for an ombudsman would really provide an incentive to — —

**Mrs PEULICH** — That is certainly a model that is being advocated by the Auditor-General in his review of complaints-handling mechanisms — that is, obviously that more and more of the complaints would first of all be handled locally and then to have opportunities of being escalated further rather than just jumping to the highest level first up. I would imagine that you would endorse that concept.

**Ms HELD** — Yes. One of the issues we have is that the state government provides Seniors Online. They fund us for an information service which maybe is not well-known enough, but people do not really know where to go if they have got that sort of initial complaint and it is not at the point of needing to go to an ombudsman. So I think promoting information for people and where they can at least go to work through initially what their concerns are and then — —

**Mrs PEULICH** — So the comment about not promoting services that are designed for a particular demographic continues to be an issue from the time that I was involved in an all-party inquiry back in the 1990s — the fragmentation of services and people not having access to information. I did not even know about the service that you provide.

**Ms HELD** — Yes, that is right.

**Mrs PEULICH** — But there was also mention about another service today — and I cannot recall exactly the witness — MoneyHelp —

**Ms HELD** — MoneyHelp, yes.

**Mrs PEULICH** — which I had never heard of before, even though I have been in Parliament for 20 years.

**Ms HELD** — Yes, through consumer action.

**Mrs PEULICH** — So is there some organisation that actually pulls together all of these service providers and assistance for a particular demographic and that is publicised and circulated? Who do you see has the responsibility for that?

**Ms HELD** — Information is always problematic because people do not go looking for it until they need it, so that is a constant issue facing us at seniors information.

**Mrs PEULICH** — So whose responsibility is it?

**Ms HELD** — We are not funded to do TV campaigns and that sort of thing, so you advertise as well as you can within the kinds of networks that you have.

**Mrs PEULICH** — Is that a government department's role, do you think?

**Ms HELD** — It is to an extent, and through Seniors Online and through the seniors card they do try to promote the services that are available, but again people will see an ad and if they do not need it at the time, they might have forgotten by the time the issue comes up that that service is available. So I am not sure there is any easy answer to that at all unless you do a massive public awareness campaign.

**Ms SYMES** — I noticed in your submission that you get a lot of queries about refurbishment costs in the context of the exit fee and stories about people being charged even if they have not been there for very long. It is a theme that is coming up a bit. I am not sure if you will be able to answer it fully. You will only hear about what comes through directly to you, I suppose. But is it your experience that the refurbishment cost is almost a monopoly of the operator? It does not seem to be like a normal rental agreement where it has got to be in the same condition as when you took it over; it is almost like a — —

**Ms HELD** — Again, I think this is an issue with the contracts. People do not understand what they are getting into when they sign up. I have certainly heard the experiences of people who have gone into retirement living who have had a health crisis and had to move out within 12 months and lost \$40 000 or something because they just did not understand the financial implications of what they were doing or what would happen if they did not stay there for a period of time.

**Ms SYMES** — It sounds as though the refurbishment cost is almost like an inflexible common feature of contracts. I am not hearing anyone go, ‘Oh yeah, no, it was fine’. Everyone thinks it is an overcharge. I have not heard anyone say it was a reasonable charge.

**Ms HELD** — I would agree, yes.

**Ms SYMES** — That would be your sense?

**Ms HELD** — Absolutely, yes. Just back to the earlier comment about alternative models of housing, anecdotally I think some operators are really having trouble filling their retirement living now because people are becoming more aware of the financial implications of the decisions they are making and the levels of deferred — —

**Ms SYMES** — Is there any negotiation available? Say I wanted to access a retirement home and they were wanting to get rid of it, can I say — —

**Ms HELD** — Technically you could negotiate the deferred management fee. I mean, they do vary between operators, and they have crept up over time. It used to be sort of 25 per cent. Really it was introduced more to get them off the ground, but they continued to charge you over time. I think the original ideal was to help get better capital investment, but now it is really a rich financial return for operators.

**The CHAIR** — Thank you, Ms Held, for your evidence this afternoon and for your preparedness to answer our questions.

**Ms HELD** — Thank you.

**Witness withdrew.**