



TOI TE ORA PUBLIC HEALTH

Bay of Plenty + Lakes Districts



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Residential Tenancies Act Reform
Ministry of Housing and Urban Development
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Submission to Residential Tenancies Act Reform

Introduction

The Bay of Plenty District Health Board (Bay of Plenty DHB) and the Lakes District Health Board (Lakes DHB) are required by the Public Health and Disability Act 2000 to improve, promote, and protect the health of people and communities, to promote the inclusion and participation in society and independence of people with disabilities and to reduce health disparities by improving health outcomes for Māori and other population groups.

Health is a state of complete physical, mental, and social wellbeing and not merely the absence of disease or infirmity (World Health Organization, 1946). Whilst health care services are important health interventions their primary purpose is to manage disease, ill-health and trauma at an individual level. The health and wellbeing of a community is more strongly influenced by a wide range of factors beyond the health sector. These factors are referred to as the 'determinants of health'. Many determinants of health are directly influenced by the decisions and activities of other central and local government agencies.

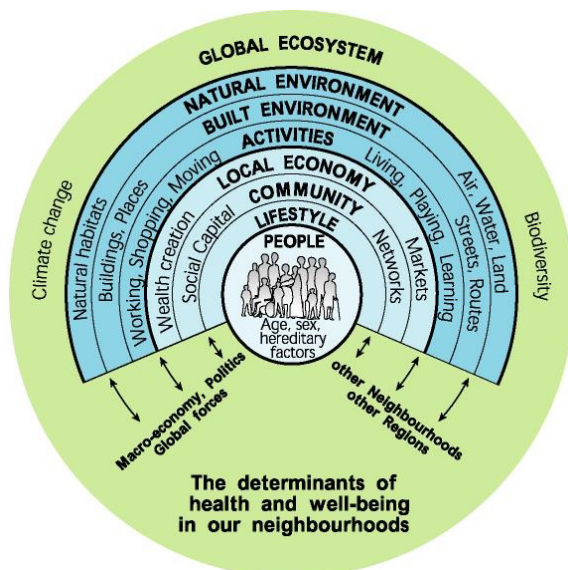


Figure 1: A model of the determinants of health (Barton & Grant, 2006)

The Bay of Plenty DHB and Lakes DHB (the DHBs) welcome the opportunity to provide helpful, objective and independent input to inform legislative decisions for the health of people living in rental accommodation.

This submission has been prepared by Toi Te Ora Public Health (Toi Te Ora) which is the Public Health Unit for both Bay of Plenty DHB and Lakes DHB.

Submission

The World Health Organisation (WHO) defines housing as a broad concept involving four interrelated elements; the home, the dwelling, the community, and the neighbourhood. Housing is a determinant of health and a significant influencing factor in health inequalities and poverty.

Good quality housing and secure tenure is essential for physical and mental wellbeing. The lack of affordable housing options and the poor condition of some housing is having an inequitable effect on health outcomes across Aotearoa. Homelessness, living in unhealthy homes and insecure tenancy arrangements are largely beyond the control of individuals, especially children, and require action by public authorities at all levels.

The proposal to reform the residential tenancy rules to improve housing quality standards, the setting of rent and security of rental tenure will improve health for all while focusing on people whose circumstances have made them particularly vulnerable to poor health outcomes including Maori, low income individuals and families, the elderly and children. For this reason the DHBs support the aims of the reform and the proposed approach to make life better for tenants.

Section 2 - Modernising tenancy laws so tenants feel more at home

2.1 Improving tenants' choice and control over their housing

A home is the social, cultural and economic structure created by those within it.

In 2017 Toi Te Ora undertook a qualitative study to explore residents' perspectives of the impact their housing had on their health and wellbeing.¹ Information was also gathered about the differing housing conditions that Bay of Plenty and Lakes residents experience. Key findings of relevance to this submission were:

- Insecurity of housing tenure was a recurrent theme, along with its impacts on health and wellbeing.
- The quality of neighbourhood relationships, and overall community connectivity, played an important role in health and wellbeing.

While some people rent by choice to retain the flexibility and freedom to move, people also need to have stability and security of tenure to call a place home. This may vary with individual circumstances and stage of life. Families and older people typically require a higher level of stability and security of tenure.

¹ https://www.toiteora.govt.nz/healthy_homes_hs

Providing home stability helps people to maintain schooling and employment, contact with essential services such as health professionals and facilitates household connectedness, enabling occupants to build connections across their local community.

Security of tenure is particularly important for families with children as it provides a stable living environment. Multiple changes of address adversely affect children's educational attainment and access to healthcare. Infrequent contact with health professionals may mean that health issues remain undetected and untreated, leading to increased hospitalisation and the need for more extensive care.

In the qualitative housing study conducted by Toi Te Ora residents who were renting often described feelings of vulnerability, of not being in control and being dependent on the decisions of landlords concerning rent increases or lease renewals. This is epitomised by the following quotation: *"It is always the thought there that one day they will say away you go. Goodbye."*

The study also found the quality of the relationship between landlord and tenant was important for tenants. Good relationships were described in terms of landlords being responsive to requests for maintenance and repairs, and of being respectful of their tenants' privacy. Conversely, poor relationships were perceived as landlords failing to respond to legitimate tenant expectations and, in one case, a participant being evicted without the landlord listening to their explanation.

The DHBs recommend that the notice period for termination of a tenancy should reflect the time that a reasonable tenant with limited means may take to find a healthy alternative. The DHBs consider a reasonable notice period to be 90 days.

On this basis the DHBs support changes to the Residential Tenancy Act that provide tenants with improved security and stability of tenure while maintaining fairness for both tenants and landlords. The DHBs recommend the Residential Tenancy Act be amended to require a minimum 90 day notice period of termination for both landlords and tenants. The DHBs recommend that the reasons outlined in Sections 51(1) (a)-(c) and 51(2) be removed as these are not considered reasonable grounds to require less than 90 days termination period. The DHBs do not support the ability for the landlord or the tenant to routinely negotiate shorter periods, unless prior approval from Ministry of Housing and Urban Development is received, in order to safeguard the interests of both parties.

As per the website of Housing New Zealand the primary purpose of public housing is to provide housing options for people in need. About 10% of the renting population live in public housing at any given time and the DHBs recommend that consideration be given to allowing more than 90 days' notice for tenants in public housing. This is to take into account the extra difficulty that tenants of social housing may face in finding alternative healthy and suitable housing,

Additional grounds for termination of tenancies by public housing providers

The DHBs recognise there is a need for additional termination grounds to be available to public housing providers to manage changes to tenant circumstances or the wider needs of the community. However, the grounds for termination should be reasonable and take into account the likely social, work and school connections tenants and their families will have with their community. For example it may be reasonable to terminate a tenancy when the house becomes too big for tenants because their children have grown up and left the family home.

Section 3 - Setting and increasing rents

Public housing pay income related rent.

3.1 Rental bidding

The affordability of housing is an important determinant of health and wellbeing.

Many New Zealand families share accommodation with other families to save money because they cannot afford adequate housing. There is evidence linking crowding with communicable diseases such as meningococcal disease, acute rheumatic fever and tuberculosis, as well as with poor mental health.

A house needs to be affordable for the occupants, with affordability including associated costs such as bond, utilities, heating and insurance. Without affordable housing people may end up homeless or in substandard accommodation.

For these reasons controls to manage the setting and increasing of rent need to be put in place through the Residential Tenancy Act reform. The DHBs support controls to prevent landlords setting rent higher than the market rate without justification. The DHBs also support measures to prevent rent increases occurring too frequently and without reasonable notice.

Additional rent controls

Housing is not an ordinary commodity. New Zealand is a signatory to the United Nations Universal Declaration of Human Rights (1948) and the United Nations has outlined that everyone has the right² to adequate housing. The concept of adequate housing includes affordability.³

Allowing the market to drive rent can make adequate housing unaffordable for many people. Noting that the proportion of all houses being rented is predicted to rise significantly over the next 30 years the DHBs recommend that a more hands on approach is taken to how rent is set in the lower end of the market to ensure it remains affordable. It is justifiable for

² Office of the United Nations High Commissioner for Human Rights. (2009). The right to adequate housing. Fact sheet no. 21(rev.1). Geneva. Retrieved 1/10/2018 from: https://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf

³ Ibid (page 4)

Ministry of Housing and Urban Development to intervene and set the price of rent in the lower end of the market in order to protect low income people and families, and other vulnerable populations such as the elderly.

This will ensure that housing is affordable and that the right to adequate housing is maintained.

Section 4 - Boarding house tenancies

4.1 Quality standards for boarding houses and improved accountability for the operators
Unhealthy homes can impact on health in many ways. Regardless of the type of rental accommodation a person's home should not pose undue risk of physical harm to the occupants or promote anxiety or stress.

The physical condition of the building, the suitability of the accommodation for its occupants, and its affordability, each has an impact on health and wellbeing. Shared accommodation can pose an increased risk to health because tenants have less control over their environment compared to in a private house.

The 2004 Tenants Protection Association survey of Christchurch boarding houses mentioned in the discussion paper indicates that vulnerable populations are more likely to live in shared accommodation, emphasising the need for the responsibilities of boarding house landlords to be clearly delineated.

The DHBs consider there to be significant health benefit from improved boarding house standards and accountability. Rental accommodation with communal facilities need legislative oversight to ensure occupants and visitors can enjoy accommodation of a reasonable standard.

The DHBs encourage Ministry of Housing and Urban Development to consider expanding the scope of the Residential Tenancy Act to include all types of rental accommodation to ensure a consistent and protective approach. The DHBs recommend that the definition of a boarding house be widened to capture all types of long-term shared/communal rental accommodation.

The DHBs consider *stronger enforcement powers* necessary to improve the quality of boarding houses and would like to see proactive compliance monitoring of boarding houses to ensure they consistently provide a healthy environment for occupants.

The DHBs would like to see minimum standards set for boarding houses with such standards including reference to room size, the availability of outdoor space, cleanliness of rooms and buildings, suitability of sanitary facilities and food preparation areas, as well as warmth, ventilation and moisture.

In response to the discussion document questions on page 44 the DHBs consider that a minimum standard for shared accommodation will include compliance with the Building Act,

the Health Act, including the Housing Improvement Regulations and, when available, the Healthy Housing Standards.

The DHBs support option two which proposes the introduction of a warrant of fitness for boarding houses and their operators. The responsibility for a warrant of fitness regime should be shared between central and local government. Central government should provide a set of minimum standards, along with a compliance and enforcement framework, while territorial authorities should be responsible for the regime's implementation and monitoring. Territorial authorities already have a duty under the Health Act to regularly inspect their district and are able to enter a dwelling to look for any conditions likely to be injurious to health or offensive, and to rectify such conditions.

The DHBs support a warrant of fitness regime in order to improve the quality of boarding houses and recommend that a nationally consistent approach be taken to enforcement through the reform of the Residential Tenancy Act.

Section 5 - Enforcing tenancy laws

5.1 Ensuring the right penalties are enforced by the right authorities under the Residential Tenancy Act

The DHBs recognise that this is a complex area and support an approach which ensures the best tools are available to enforce the law in a fair and consistent way.

The DHBs support the ability for the enforcement agency (Ministry of Business Innovation and Employment/Ministry of Housing and Urban Development) to enter boarding houses to assess compliance and suggest this right of entry be extended to all rental properties. Without the ability to enter and inspect there is no mechanism to ensure that compliance and the health of the occupants is protected.

The DHBs support Option two which proposes that the enforcement agency (Ministry of Business Innovation and Employment/Ministry of Housing and Urban Development) has the power to audit. An enforcement agency needs to have the ability to proactively assess compliance and follow up any concerns. However, auditing records should not be the only method used to prove compliance and enforcement, and the DHBs therefore recommend auditing includes a physical inspection of the premises. For instance a written record that a heating source has been installed does not confirm that the heating source works or that the house is warm and dry.

The DHBs support the submission of the Children's Commissioner ⁴ to the Healthy Homes Guarantee Bill that it is unfair and unrealistic to expect tenants to report non-compliance to the appropriate authority. The DHBs recommended that mechanisms to report non-compliance with the new Healthy Homes Standard be included in the Residential Tenancy Act. There should be an obligation for government agencies (central and local) that enter rental properties to report potential breaches and unhealthy housing situations to Ministry

⁴ <http://www.occ.org.nz/assets/Publications/Healthy-Homes-Guarantee-Bill-FINAL-OCC.pdf>

of Housing and Urban Development, particularly when children are involved. This obligation for risks to children to be reported already exists for social workers and community health workers, local authority environmental health officers, health protection officers and medical officers of health.

The DHBs also support the proposal for the enforcement agency (Ministry of Business Innovation and Employment/Ministry of Housing and Urban Development) to issue improvement notices as a tool to achieve compliance. The timeframe to rectify situations of non-compliance needs to align with the risk that the breach poses to the occupants of the dwelling. When there is an unacceptable level of risk to health it may be appropriate for alternative temporary or permanent accommodation to be provided for the tenants.

Infringement notices should be used when voluntary compliance does not occur within an agreed time period.

The DHBs recommend that it be unlawful for a person or entity to knowingly rent, or markets for rent, a house that does not comply with the Residential Tenancy Act. A house that does not meet the minimum healthy home standards is, by definition, substandard and likely to harm health.

Public health emphasises keeping people healthy and improving the health of populations. The DHBs recommend the Residential Tenancy Act reform proactively protects public health by ensuring that rental houses are compliant before they are rented. Implementing compulsory registration of landlords would enable the enforcement agency (Ministry of Business Innovation and Employment/Ministry of Housing and Urban Development) to verify compliance and issue certification indicating that a house is suitable for rent.

Bay of Plenty and Lakes DHBs wish to thank the Ministry of Housing and Urban Development for the opportunity to submit.

Yours sincerely



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