



**MINISTRY OF SOCIAL
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

Dear [REDACTED]

On 14 October 2019, you emailed Kāinga Ora – Homes and Communities (previously Housing New Zealand) requesting, under the Official Information Act 1982, the following information:

- *any advice or reports to the minister on tenancy reviews and tenancy review exemptions in the last two years?*
- *total number of public housing tenancies, as of October 14, 2019?*
- *How many/what proportion of public housing tenancies are exempt from tenancy review? (If an exact figure can't be provided, can an estimate be provided?)*
- *How many people/households have agreed lifetime tenure with Housing NZ/Kainga Ora?*
- *How many tenancy reviews have taken place in the last five years, broken down by year?*
- *What is the longest existing Housing NZ tenancy?*
- *What proportion of tenants in public housing are paying market rent/100 per cent of their rent?*

On 17 October, Kāinga Ora – Homes and Communities transferred the following four questions to the Ministry of Social Development (the Ministry) to provide a response:

1. *any advice or reports to the Minister on tenancy reviews and tenancy review exemptions in the last two years?*
2. *How many/what proportion of public housing tenancies are exempt from tenancy review? (if an exact figure can't be provided, can an estimate be provided?)*
3. *How many tenancy reviews have taken place in the last five years, broken down by year?*
4. *How many people have exited public housing after a tenancy review in the last five years, broken down by year.*

On 29 March 2018, the Minister for Housing and Urban Development announced a pause to periodic tenancy reviews while consideration was given to a potential expansion of the groups of tenants who were exempt from the review process. More information regarding the announcement is available on the Beehive website at: www.beehive.govt.nz/release/further-tenancy-review-exemptions-be-considered.

The pause on Tenancy Reviews resulted in the Ministry recognising a distinct cohort of clients who may need the support and stability of Public Housing for a longer time. It is important to note that exempt tenants will still have a tenancy review if things like their income or assets change and the change means they may no longer need Public Housing, or if they need to move into a different property that better meets their needs. The exemption criteria now includes tenancies where the signatory or their partner:

- is aged 65 years or older,
- has one or more dependent children aged 18 years and under in their care, or
- receives a Supported Living Payment (SLP).

Tenancy Reviews were re-commenced in late February 2019. As at 31 December 2019, there are currently 706 people flagged at the 'Independence Planning' phase of the Tenancy Review.

Independence Planning is a phase in the Tenancy Review process where clients with the potential to become independent from Public Housing are actively supported to move to alternative housing. The timeframe associated will vary depending on individual circumstances. For example; someone looking to rent may take three months or longer to secure alternative housing. Because of the current housing state in New Zealand, this may have an impact on the number of those exiting Public Housing as reflected by tenants in the 'Independence Planning' phase.

The below table provides a list of reports which fall in scope of your request for *any advice or reports to the Minister on tenancy reviews and tenancy review exemptions in the last two years*. These documents are enclosed for your reference.

| Date | Document Title |
|------------------|---|
| 1 December 2017 | REP/17/15/1233 – Initial advice on tenancy review exemptions and interim arrangements |
| 28 February 2018 | REP/18/2/191 – Further advice on tenancy review exemptions |
| 23 March 2018 | REP/18/2/213 – Implementing the pause on tenancy reviews |
| 8 June 2018 | REP/18/5/647 – Update on Tenancy Review Exemptions |
| 29 June 2018 | REP/18/6/945 – Draft Cabinet paper Extending public housing tenancy review exemptions |
| 31 August 2018 | REP/18/8/1251 – Aide-memoire: Extending public housing tenancy review exemptions |

Please note that the *Cabinet Paper – Extending Public Housing Tenancy Review Exemptions* is publicly available and can be located on the Beehive website at: www.beehive.govt.nz/release/making-public-housing-tenancy-reviews-fairer.

The paper further notes only 5.5 percent of all exits from public housing are directly attributable to tenancy reviews. Most exits from public housing are not due to the tenancy review process. About 94.5 percent of the 25.721 exits from public housing

between January 2015 and March 2018 were not directly attributable to a tenancy review.

You will note in paragraph 70 on page 15 of *REP/18/2/191 – Further Advice on tenancy review exemptions* a report back was scheduled for early May 2018, however this report is considered outside the scope of your request. To expedite a response information not concerning Public Housing Tenancy Reviews has not been included. Please contact the Ministry if this was not the intent of your request and you would like this information.

You will note that some information is withheld under section 9(2)(g)(i) of the Act to protect the effective conduct of public affairs through the free and frank expression of opinions. I believe the greater public interest is in the ability of individuals to express opinions in the course of their duty.

You will note that some information is withheld under section 9(2)(h) of the Act in order to maintain legal professional privilege. The greater public interest is in ensuring that government agencies can continue to obtain confidential legal advice.

You will note that the names of some individuals are withheld under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

You will also note that the contact details of some individuals have been withheld under section 9(2)(k) of the Act in order to reduce the possibility of staff being exposed to phishing and other scams. This is because information released under the Act may end up in the public domain, for example, on websites including the Ministry's own website.

With reference to question two, the table below shows the number and percentage of public housing tenancies as at 30 September 2019, broken down by tenancy review phase.

| Tenancy Review Phase | Tenancies | Percentage |
|--|------------------|-------------------|
| Tenancies for review | 9,995 | 14.6% |
| Tenancy reviews in progress | 1,826 | 2.7% |
| Tenancies not for review (exempt for any reason) | 56,427 | 82.7% |
| Total | 68,248 | 100% |

Notes:

- Public housing tenancies can be exempt from a Tenancy Review under a number of circumstances. This includes the tenancy already having been reviewed in the last three years or the tenancy being less than three years old.
- Additionally, if there are the signatory and or partner in a tenancy aged over 65, or there are children in the house or people receiving the SLP and reported income and assets are under defined limits then these tenancies are also exempt from Tenancy Reviews.
- The tenancies exempt from review include total exempts for any reason, not just clients who meet the new exempt criteria.

With reference to question three, the table below shows the number of Tenancy Reviews recorded as being completed, broken down by calendar year to 30 September 2019.

| Number of Tenancy Reviews | Completed Year | | | | | |
|---------------------------|----------------|------|-------|-------|------|-------|
| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 |
| Reviews Completed | 30 | 661 | 2,644 | 3,704 | 88 | 1,126 |

Notes:

- This report is by calendar year the Tenancy Review is recorded as being completed,
- The Tenancy Review process was paused after the change in Government in October 2017. Tenancy Reviews re-commenced in late February 2019.

With reference to question four, the table below shows the number of Tenancy Reviews completed with an outcome of 'Exit from Public Housing', broken down by calendar year to 30 September 2019.

| Tenancy Reviews | Year Completed | | | | | |
|--|----------------|------|------|------|------|------|
| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 |
| Reviews Completed with the Tenancy Vacated | 28 | 404 | 596 | 402 | 8 | 8 |

Notes:

- This report is by the year the Tenancy Review is recorded as being completed; however, this may not be the year the tenancy was vacated.
- The Tenancy Review process was paused after the change in Government in October 2017. Tenancy Reviews re-commenced in late February 2019.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public shortly. The Ministry will do this by publishing this letter on the Ministry of Social Development's website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response regarding Tenancy Reviews, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'K. Hocking', followed by a long, sweeping horizontal line that extends to the right.

Karen Hocking
General Manager Housing



Report

Date: 23 March 2018

Security Level: IN CONFIDENCE

To: Hon Phil Twyford, Minister of Housing and Urban Development

This report may include legal advice and be legally privileged. It should not be disclosed on an information request without further legal advice

Further advice on tenancy review exemptions

Purpose of the report

- 1 This report provides you with further advice, for discussion, on:
 - the case for exempting tenants aged 65 years and older, those with disabilities, and those with school-aged children from having their continued eligibility for public housing reviewed through a tenancy review, and
 - separating decisions on continued eligibility for public housing from decisions on continued suitability of a property for a tenant's housing needs.

Executive summary

- 2 Public housing continues to be under pressure. As at December 2017, there were 6,182 people on the housing register. This is the highest register level since public housing system changes were implemented in April 2014.
- 3 Further exemptions could exacerbate the growth in the Housing Register (by reducing the number of houses freed up for people on the Register), so decisions need to balance the benefits of tenure security for existing tenants with the needs of those on the Register awaiting a tenancy. It is not possible to quantify the likely impact of further exemptions at this point, as that will depend significantly on decisions about whether MSD continues to undertake the same number of tenancy reviews. MSD will provide further advice to you in early May 2018 seeking a decision on this point.
- 4 Tenancy reviews currently assess two different things – i) continued eligibility for public housing, and ii) property suitability i.e. whether a household is in the right size and type of property.¹ Around 7,700 tenancies are currently operationally exempted from such reviews. The exemptions improve administrative efficiency by excluding tenants from selection if they are likely to have continuing eligibility for public housing (exemptions are not generally intended to provide a house for life).
- 5 You have directed officials to consider the case for exempting a further three groups – tenants aged 65 years and over, those with disabilities, and those with school-aged children.

¹ In legislation, a review of property suitability is described as a review of "housing needs". Housing Restructuring and Tenancy Matters Act (1992) s 118
<http://www.legislation.govt.nz/act/public/1992/0076/67.0/DLM6091005.html>

- 6 Each group has been assessed in terms of likely continued eligibility for public housing, whether there would be a demonstrated benefit from having greater security of tenure, likely impact on public housing supply, and ease of administration. The current exemptions were also considered as to whether they should remain.
- 7 On this basis, we recommend that the following groups be exempted:
- tenancies where the signatory or their partner is aged 65 – 74 years (in addition to the current exemption for those aged 75 years and older)
 - tenancies where the signatory or their partner has 'simplified access'² to the Supported Living Payment (SLP), which would replace the current exemption relating to modified houses,
 - tenancies where the signatory or their partner has a dependent child aged 18 years and younger (rather than just school-aged, as you suggested), using the existing definition of dependent child for public housing purposes³
 - tenancies with 'lifetime tenure' (current exemption)
 - 'assured tenancies' (current exemption which defers a tenancy review).
- 8 A key policy choice is whether you wish tenancy review exemptions (for both these groups and current exempt groups) to mean:
- a. Eligibility of any tenant in exempt groups cannot be reviewed under any circumstance (including for example where a tenant has provided misleading information about their circumstances to MSD, or has failed to notify MSD of a change in circumstances which may affect eligibility); or
 - b. (MSD preference): tenants in exempt groups cannot be selected for tenancy review, but if MSD obtains information that indicates the tenant may no longer be eligible (for example through notification by the tenant, through a property suitability assessment or investigation under section 121 of the Housing Restructuring and Tenancy Matters Act 1992 (HRTMA), MSD is still able to review the tenant's eligibility. (If the tenant is no longer eligible, MSD can then initiate support to transition into alternative housing).
- 9 We would like to discuss this policy choice with you. MSD's preference is for option b above, as it would retain the ability for MSD to review eligibility in particular circumstances, and ensure that the integrity of the public housing system is maintained. We anticipate that this ability would be used relatively rarely.
- 10 Exempting the proposed groups will not (in itself) change the number of tenancy reviews undertaken but will reduce the pool of tenants able to be selected for a review by approximately 26,340 tenants (a 45 per cent reduction). This will still leave a pool of around 32,320 tenancies able to be considered for a tenancy review. A decision will be sought from you in early May on whether the current target of 3,000 tenancy reviews per annum should remain or be adjusted.

s 9(2)(h)

² Whose medical condition is sufficiently severe that their capacity to work will not ever have to be re-assessed for continued SLP.

³ A dependent child is someone who is aged under 18 years (unless they are aged 16 or 17 years and are financially independent) or is aged 18 years and financially dependent and attending school or tertiary study). The dependent child must be primarily the responsibility of the signatory or their partner, and be maintained as a member of that family, and financially dependent on the signatory or their partner. They must also be in the care of the signatory or their partner for 6 or more nights over a 14 day period.

- 12 We can confirm that it is possible to separate decisions on assessing continued public housing eligibility from those that assess continued housing needs (i.e. property suitability), but this needs to be set out clearly in a Ministerial Direction.
- 13 MSD will report back in early May seeking your decisions on consequential matters around the number of tenancy reviews and property suitability reviews to be undertaken, operational costs and impacts, and feasible implementation timeframes. Tenancy reviews based on the new exemptions could potentially restart prior to finalisation of a new MSD process for reviewing housing needs (i.e. property suitability).
- 14 If you agree to the proposed further exemptions, MSD recommends that you issue a Ministerial Direction on tenancy review exemptions under the HRTMA. For transparency, we recommend that the Ministerial Direction cover all exempt groups (i.e. current groups plus any further exempt groups). We will provide a Ministerial Direction with our report in early May and will also work with your office at that point on a plan to announce the changes.
- 15 Before issuing a Ministerial Direction, you may wish to consider consulting Cabinet colleagues on proposed changes to tenancy reviews. This is because of the significant implications for the Housing Register and Government's priority of reducing homelessness. If you decide to seek Cabinet agreement to the changes, MSD will prepare a Cabinet paper and announcements would follow Cabinet decisions.
- 16 Following implementation, MSD will monitor the impact of further exemptions from tenancy reviews, including any unintended consequences. We also suggest that the need for tenancy review exemptions for each group be reconsidered in three years time, as significant progress on improving the private rental market and increasing affordable housing should make alternative secure and affordable housing options more available to public housing tenants.

Recommended actions

It is recommended that you:

- 1 **note** that public housing tenants aged 75 years and older, those in modified houses, those with lifetime tenure, and those with assured tenancies⁴ are currently exempted from tenancy reviews under operational policies
- 2 **note** that you have directed officials to consider the case for exempting a further three groups from tenancy reviews - tenants aged 65 years and over, those with disabilities, and those with school-aged children
- 3 **agree** that the following groups be exempted from being selected for a tenancy review:
 - tenancies where the signatory or their partner is aged 65 – 74 years

Agree / ~~Disagree~~

- tenancies where the signatory or their partner has 'simplified access' to the Supported Living Payment

Agree / ~~Disagree~~

⁴ Tenants with assured tenancies have tenancy reviews deferred for three years.

- tenancies where there is a dependent child aged 18 years and under, using the existing definition of 'dependent child' for public housing purposes, as referenced in paragraph 7

Agree / ~~Disagree~~

- 4 **agree** that the current operational exemptions relating to tenancies where the signatory of their partner is aged 75 and older, those with 'lifetime tenure', and those with 'assured tenancies', be retained

Agree / ~~Disagree~~

- 5 **agree** that the current exemption for tenants in modified houses be discontinued

Agree / ~~Disagree~~

- 6 **note** that the exemptions in recommendations 3 and 4 would reduce the number of tenancies able to be selected for a tenancy review by around 26,340 (a 45 per cent reduction), but still leave around 32,320 tenancies able to be selected

- 7 **agree** that all exempt groups would still face "housing needs" (i.e. property suitability) reviews where appropriate, to ensure their current property still meets their needs

Agree / ~~Disagree~~

- 8 **note** that as part of further work, we will seek a decision from you on how many tenancy reviews MSD undertakes per year in future (on the smaller tenant pool), and how many reviews of property suitability

- 9 **agree** that where a tenant is exempted from tenancy reviews:

EITHER

- 9.1 MSD cannot review the tenant's continued eligibility for public housing under any circumstance (including where a tenant has provided misleading information to MSD, or failed to notify MSD of a change in circumstances which would affect eligibility)

~~Agree~~ / Disagree

OR

- 9.2 **(MSD preferred option)** MSD is still able to review the tenant's eligibility if MSD obtains information that indicates the tenant may no longer be eligible (for example through notification by the tenant, through a property suitability assessment or investigation under section 121 of the HRTMA)

Agree / ~~Disagree~~

- 10 **agree** that MSD draft a Ministerial Direction in accordance with the recommendations in this report, setting out all exemptions to tenancy reviews (current exempt groups and proposed new exemptions)

Agree / ~~Disagree~~

- 11 **note** that following discussion with you and further work, we will report back to you in early May 2018 on next steps, including the Ministerial Direction, decisions on the number of tenancy reviews and property suitability reviews to be undertaken, operational impact and implementation timeframes, and a plan for announcing the changes

- 12 **consider** consulting Cabinet colleagues on proposed changes to tenancy reviews because of the significant implications for the Housing Register and government's priority of reducing homelessness

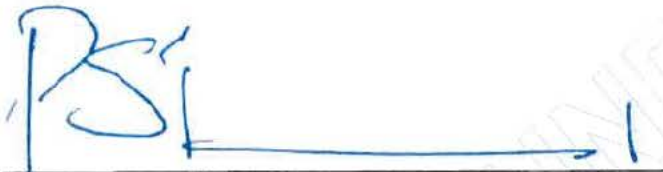
- 13 **note** that MSD suggests that the need for tenancy review exemptions for each group be reconsidered in three years time, to take into account anticipated improvements to housing affordability and the private rental market.



Sandra Preston
General Manager, Housing Policy
Ministry of Social Development

23/3/18

Date



Hon Phil Twyford
Minister of Housing and Urban Development

24.3.18

Date

You have already received initial advice on tenancy review exemptions

- 1 On 1 December 2017 you were provided initial advice on tenancy review exemptions (REP/17/12/1233 refers). You have previously indicated that, while public housing is not intended to be a house for life, certain groups of public housing tenants (older people, disabled people, and households with school-aged children) should not be the subject of tenancy reviews when they are likely to remain eligible for public housing.
- 2 You therefore directed officials to report back on the case for (and impacts of) exempting tenants aged 65 years or older, those with disabilities, and those with school-aged children.
- 3 You have since been provided with advice on implementing the pause on tenancy reviews (REP/18/2/213 refers). This outlined the operational steps to pause tenancy reviews pending advice on exemptions. You are intending to announce the pause publicly on 29 March 2018.

Tenancy reviews are critical to effective utilisation of public housing

- 4 Section 117 of the Housing Restructuring and Tenancy Matters Act 1992 (HRTMA) provides the power for a review of a tenant's continued eligibility for public housing, and Section 118 of the HRTMA provides the power for a review of a tenant's "housing needs" (i.e. property suitability). Operationally, both these reviews are carried out through the tenancy review process. Such reviews seek to identify whether the right people are in the right house for the duration of their need.
- 5 Tenancy reviews currently involve five stages – a desktop check, engagement, independence planning, formal review of continued eligibility, and finally a transition period. During the engagement stage, the Ministry will meet with the household to gather current information on their current circumstances. If it is clear that the household is still eligible for public housing, they will then have their housing needs (property suitability) assessed.
- 6 Tenancy reviews are a critical part of freeing up the supply of public housing by:
 - confirming the tenant's circumstances mean they continue to be eligible for public housing support, and
 - identifying to public housing providers when a tenant needs to be transferred to another property better suited to their needs.
- 7 All tenants (including those who are exempted from tenancy reviews) are nevertheless required to inform the Ministry of Social Development (MSD) if their circumstances change in a way that could affect their eligibility.
- 8 Tenancy reviews take between six to twelve months to undertake, and consider the full circumstances of the household. While a tenant will not automatically be excluded from a tenancy review based on sickness, injury or disability, these are factors that MSD staff take into account when determining whether a tenant can afford, access or sustain alternative housing.
- 9 Tenancy reviews are targeted at groups most likely to no longer be eligible for public housing or who are in a house now not suited to their housing need. A high priority is given to market and near-market renters, and households who live in under-utilised properties such as those in four or more bedroom properties.
- 10 Of the tenancy reviews undertaken as at 30 June 2017, 24 per cent had resulted in tenants finding alternative housing.⁵ Such tenants are supported by case

⁵ The remaining 76 percent were still eligible for public housing support.

management which can take up to three years depending on the tenant's circumstances and location.

Around 7,700 tenancies are already currently exempted from tenancy reviews under MSD operational policies

- 11 Three groups of public housing tenancies are operationally exempted by MSD, based on Ministerial agreement at the time when tenancy reviews were introduced:
 - those in which the signatory or their partner is aged 75 years or older (currently 5,586 tenancies)
 - those in houses modified for their needs, for example, to enable wheelchair access (2,345)
 - those with agreed lifetime tenure with Housing New Zealand Corporation (HNZC)⁶ (37 tenancies).
- 12 These groups are identified by the Ministry through a manual process. Staff are provided with an electronically generated list of all public housing tenancies, and manually exclude those who fall into one of the exempt groups from being considered for a tenancy review.
- 13 The exemptions improve administrative efficiency by excluding an estimated 7,700⁷ vulnerable tenants from tenancy reviews. While this provides them with greater security of tenure (as they do not get selected for a tenancy review), **they must still inform MSD if their circumstances materially change**, for example, when income changes, or a partner moves in. MSD is able to review their eligibility and/or Income Related Rent at that point.
- 14 In addition to exemptions, assured tenancies apply to tenants who are working with Oranga Tamariki/Ministry for Children's children teams. The assured tenancies defer tenancy reviews for up to three years, with a further deferral of up to two years available, if necessary. As at March 2017, there are around 260 tenancies in this category.

There are approximately 58,670 tenancies currently able to be selected for a tenancy review

- 15 As at December 2017, there were 66,367 public housing tenancies. Taking the current 7,700 exemptions into account, there are approximately 58,670 public housing tenancies able to be selected for a tenancy review. MSD is currently funded to carry out 3,000 tenancy reviews per annum from this pool.
- 16 You have directed that consideration be given to broadening the current exemptions to also include those aged 65 years and above, those with disabilities, and those with school-aged children.
- 17 Broadening the exemptions will reduce the pool of tenancies able to be selected for tenancy reviews. However, consequential decisions will be required on the number of tenancy reviews MSD continues to undertake. As such, broadening exemptions needs to balance the benefits of security of tenure for existing tenants as well as the needs of those on the public housing register awaiting a tenancy.
- 18 Further exemptions could exacerbate the growth in the Housing Register. We are not able to indicate the quantum of any impact but note that public housing continues to be under pressure. As at December 2017, there were 6,182 people on the housing

⁶ These are the result of HNZC taking over tenanted properties from a previous landlord, e.g. Council, and a commitment made to remain in the property.

⁷ Taking into account overlaps and double-counting.

register. This is the highest register level since public housing system changes were implemented in April 2014. The proportion of people on the register who are assessed as high priority continues to increase, as does the proportion of people who are in insecure accommodation or are homeless.

Criteria have been developed as a basis for considering additional exemptions

19 The three additional groups you have directed us to consider have been assessed in terms of whether there is:

- **a high likelihood that a tenant will continue to be eligible for public housing** – in the absence of a tenancy review, a tenant could end up being in public housing for longer than they need. This could have significant impacts on the size of the housing register, depending on the size of the exempted groups, as it would reduce the number of tenants moving to alternative accommodation when they no longer have a need for public housing. Exemptions should therefore focus on groups highly likely to continue to be eligible for public housing (for whom a tenancy review is of little value and may cause unnecessary stress).
- **a demonstrated benefit from having greater security of tenure** - exemptions should focus on those groups where research demonstrates that they benefit the most from security of tenure compared with other groups.
- **likely to be a minimal impact on public housing supply** - tenancy reviews are a critical part of freeing up the supply of public housing by exiting those able to sustain a private rental, or transferring tenants to a property better suited to their needs. Such reviews are also the trigger for approximately 50 tenants per quarter voluntarily moving to alternative accommodation. Exempting a large group of tenants will not directly reduce the number of tenancy reviews but will reduce the pool of tenants able to be selected for a tenancy review. Exemptions should not create incentives for tenants to remain in public housing unnecessarily.
- **an objective and administratively simple way for MSD to identify whether a tenant is exempt** - the exemption process needs to be simple to administer, and effective. This involves MSD being able to objectively identify the group being exempted, without having to go to a tenant and get information verified.

There is a strong case for exempting tenancies where the signatory or their partner is aged 65 – 74 years (in addition to those 75 years and older who are currently exempted)

Tenants aged 65 years – 74 years are highly likely to continue to be eligible for public housing

20 Since 2014, only 11 per cent of tenants aged 65 – 74 years have moved (or are in the process of moving) to alternative accommodation as the result of a tenancy review. The remaining 89 per cent remained eligible, largely because:

- older people are **more likely to not be working** (23 per cent of the general population aged 65 years and older were in employment during 2013-16, compared to 71 per cent for 60-64 year olds, 80 per cent for 55-59 year olds, and 84 per cent for 50-54 year olds).
- many will **not have an income beyond superannuation** (40 per cent have less than \$100 per week from other non-NZ superannuation sources, rising to 60 per cent for singles).
- most older public housing tenants (over 80 per cent) have an income-related rent subsidy of more than \$150 so are **not close to paying market rent**. As

such, they are less likely to be able to afford to move to the private market, due to being on fixed incomes.

Security of tenure is important for older tenants

- 21 Research has found that tenure security is especially important for older tenants as they are typically both asset poor and income poor. For example, a review in Victoria (Australia) noted that older tenants are also likely to be affected disproportionately by frequent moves and uncertainty about the lengths of their tenancies.⁸
- 22 A New Zealand review found that tenure stability enables older tenants to:
 - establish and maintain supports and connections with their community and services such as in-home care, health services and shops
 - manage housing and living costs, as rental costs are more affordable and predictable
 - reduce expenses associated with frequent moving, which in itself can create or contribute to financial hardship
 - reduce stress associated with frequent moving
 - live in housing that is maintained for their comfort and safety.⁹
- 23 Older tenants are also more likely to need to be close to amenities as their mobility reduces.

Proposed scope of an 'over 65 years' exemption

- 24 It is proposed that the older tenant exemption cover tenancies where the signatory or their partner is aged 65 – 74 years (in addition to the current exemption for those aged 75 years and older).
- 25 This is the same definition used for the current operational exemption for 75 years and over tenancies. It will therefore not be overly difficult to change the exemption criteria to add in those aged 65 – 74 years.
- 26 This exemption would remove 9,188 tenancies (16 per cent) from the pool of 58,670 households able to be selected for a tenancy review.

There is a strong case for exempting tenants with significant disabilities

Tenants with disabilities are highly likely to continue to be eligible for public housing

- 27 People with disabilities who are in public housing are likely to have ongoing eligibility for a number of reasons, relating to affordability and accessibility:
 - disabled people have significantly worse employment outcomes than non-disabled people¹⁰
 - the average income of disabled people is lower than non-disabled¹¹, with average earnings being lower due to working fewer hours and receiving lower wages

⁸ Security of Tenure – Issues paper, RTA Review Victoria (2015)

⁹ James, Dr Bevan and Saville-Smith, Nina (2016): Tenure Security for Older Tenants: A country review of policy, programmes and regulation.

¹⁰ In the June 2017 quarter, labour force participation was 25.2% compared to 72.6% for non-disabled people, and 22.4% employed compared to 69.3% (Stats NZ)

¹¹ In the June 2017 quarter, average weekly income for a disabled person was \$458 compared with \$833 for a non-disabled person. Average earnings were \$26.40 vs. \$31.01 (Stats NZ)

- disabled people are more likely to be older, increasing the extent of their vulnerability.

Security of tenure is particularly important for people with disabilities

- 28 People with disabilities are one of the groups that benefit the most from security of tenure. Studies in Australia, for instance, have found that tenants with low incomes and those with additional needs, such as people with a disability or older tenants, are likely to be affected disproportionately by frequent moves and uncertainty about the lengths of their tenancies.¹²
- 29 Some of this group will be covered by the proposed exemption for tenants aged 65 years and older, given that:
- 35 per cent of disabled people in the general population are over 65 years of age
 - 59 per cent of people over the age of 65 years identify as disabled.
- 30 The ageing nature of New Zealand's population will therefore result over time in an increasing proportion of people experiencing disability.

The current disability exemption could target tenants better and should be replaced

- 31 There is currently an operational tenancy review exemption for public housing tenants in houses which have been modified to accommodate disability. There are two issues with how this exemption is targeted:
- The exemption targets modified properties, rather than tenants with disabilities. Not all tenants with disabilities are able to access a suitably modified property in a suitable location, and some modified properties in some locations are occupied by tenants without disabilities (rather than leave the property empty).
 - Because the exemption targets properties rather than tenants, it only captures physical impairments which require property modifications. Tenants with other types of disabilities (for example intellectual disability, mental illness, or physical disabilities which do not need property modifications) would benefit equally from greater security of tenure.
- 32 We therefore propose removing the current exemption and replacing it with one that targets the tenant rather than the modified house.

Proposed scope of a replacement 'disability-related' exemption

- 33 New Zealand has an ageing population which will result over time in an increasing proportion of people experiencing disability. In 2013, 24 per cent (1.1 million) of the population were identified as disabled to some extent. How many public housing tenants have disabilities is unknown beyond those who receive disability-related support from MSD.
- 34 The best proxy for adult disabled public housing tenants is those who receive a Supported Living Payment (SLP) for a health condition, injury or disability reason. This payment is for people aged at least 16 years whose work capacity is permanently and severely restricted due to a health condition, injury or disability, or being totally blind.¹³
- 35 We propose that the tenancy review exemption be limited to **SLP recipients who have 'simplified access' to SLP, meaning that their capacity to work will not ever have to be re-assessed**. This is on the basis that the impact of their health

¹² Security of Tenure – Issues paper, RTA Review Victoria (2015)

¹³ 'Permanent' means the health condition, injury or disability the client has is expected to continue for at least two years, or that the diagnosis is related to a terminal illness (client not expected to live more than two years).

condition or disability on their capacity for work is unlikely to ever improve enough that they could regularly work 15 hours a week or more in open employment.

- 36 This change from the current exemption would disadvantage 277 tenants who are in modified houses but do not receive simplified access SLP. The individual circumstances of these tenancies could however, be reviewed to assess whether they still have a need for a modified house, and appropriate support provided if they do.

Caregivers who receive SLP would not be included in the exemption

- 37 Tenants can also receive an SLP because they are required to care fulltime for someone (other than their husband, wife, or partner) at home who would otherwise need hospital-level or residential care (or equivalent).¹⁴ For example, a caregiver who receives SLP to care for their severely disabled adult child. While parents who are caregivers in this example could arguably be exempted (on the grounds they are caring for some of the most vulnerable group of people), it would be difficult to administer and would make the proposed exemption too broad. As such, it is not preferred.
- 38 Such caregivers would still have their housing needs and those of the person they are caring for taken into account in the desk top or engagement phase of the tenancy review. This will ensure that their continued eligibility for public housing can be quickly confirmed where it is clear that the household is still eligible.

How to best target children with disabilities

- 39 SLP is a benefit targeting working-age people. As such, it excludes disabled children under the age of 16 years. There are two options for exempting the latter group. **Option one** is to focus the exemption on recipients of a **Child Disability Allowance (CDA)** – available to the principal caregiver of a dependent child who has a serious disability needing constant care and attention either permanently or for a period exceeding 12 months. Once a child turns 16 years of age, that child may be able to receive the SLP instead.
- 40 The CDA however, has a different threshold to the SLP. Not all children who have been receiving CDA will meet the medical criteria for SLP. It is therefore, not as good a proxy for children with severe disabilities as the SLP is for adults with severe disabilities. As such, it is not the preferred option.
- 41 **Option two (preferred)** is to exempt disabled children under 16 years through a broadened 'families with children' exemption. This would enable tenancies with disabled dependent children aged 18 years and younger, by virtue of their age, to be exempted. In addition, it will be administratively easy to administer and simple for public housing tenants to understand.

¹⁴ Under section 40D of the Social Security Act 1964, such a caregiver is required to provide full-time care and attention to a person (other than their spouse or partner), at home, who would otherwise need hospital care, rest home care, residential disability care, extended services provided for severely disabled children and young persons, or care of an equivalent kind. It can also be paid to a parent who is required to provide full-time care and attention at home to their dependent child who has a significant disability and as a result has high care needs of a type listed above.

Taken in isolation, the proposed exemption would exempt an extra 934 tenancies (two per cent) from being selected for a tenancy review

- 42 The proposed exemption removes the current operational exemption for tenants with modified houses (2,345 tenancies) and replaces it with one that exempts 3,279 simplified access SLP tenancies.
- 43 The net impact of the exemption would be an additional 934 tenancies exempted from being able to be selected for a tenancy review.

There is a strong case for exempting families with dependent children – both school and pre-school aged

Tenants with dependent children are highly likely to continue to be eligible for public housing

- 44 Around 85 per cent of tenants with dependent children¹⁵ have an income-related rental subsidy of more than \$150 so are **not close to paying market rent**. They are therefore, less likely to be able to afford to move to the private market, due to being on fixed incomes.
- 45 As such, they are highly likely to remain eligible for public housing support, and therefore would not be a high priority for a tenancy review.

Families with children are commonly cited in research as having a high need for a secure tenancy

- 46 A number of studies have looked at the impact of security of tenure on families with children.¹⁶ They have consistently found that a lack of secure tenure causes social dislocation to families with children. This has led to negative impacts on access to health checks, education, and overall development. Conversely, providing security of tenure for public housing tenants results in a stable living environment.
- 47 For pre-school children, housing insecurity has been associated with poor health, lower weight, and developmental risk among young children. The Stocktake of New Zealand's Housing report noted that international studies had found that children who move houses in the first year of their life are at substantially increased risk of emergency admissions for potentially preventable hospitalisations in early childhood.¹⁷
- 48 For school-aged children, the recent Stocktake of New Zealand's Housing report noted that there is international evidence that the negative impacts of moving are greatest when children move both residence and school, and mobile (or transient) and very mobile students were more likely to receive special education services, and

¹⁵ A dependent child for public housing purposes is someone who is aged under 18 years (unless they are aged 16 or 17 years and are financially independent) or is aged 18 years and financially dependent and attending school or tertiary study), and primarily the responsibility of the signatory or their partner, and being maintained as a member of that family, and financially dependent on the signatory or their partner. They must also be in the care of the signatory or their partner for 6 or more nights over a 14 day period.

¹⁶ Including:

- Social and Economic Impacts of Housing Tenure – Report for the NZ Housing Foundation (Nov 2016)
- Exploring Security of Tenure through Co-Design, MBIE/Auckland Council/Auckland Co-Design Lab, Sept 2015
- NZ Housing Foundation, Research Bulletin April 2017, 'From social renting to housing independence – the social and economic impacts of housing tenure'.

¹⁷ A Stocktake of New Zealand's Housing, Feb 2018

show up in truancy data.¹⁸ A New Zealand study on moving house in the first 1,000 days stated that the strongest link appears to be for an association between residential mobility and behavioural and emotional problems in school-aged children due to the impact on social support networks (including friendships).¹⁹

- 49 The Productivity Commission, in its report on housing affordability in 2012, noted that insecure tenure has a detrimental impact on tenants, particularly older people and families with children, and that providing stable public housing solutions was expected to improve children's education outcomes.²⁰
- 50 These findings are backed up by studies by the Australian Housing and Urban Research Institute²¹ and the Growing up in New Zealand study,²² as well as other similar research.²³

Proposed scope of a 'family with dependent children' exemption

- 51 You asked that we consider the case for exempting families with school-aged children. However, families with pre-school children also benefit significantly from security of tenure. **We therefore propose that the new exemption cover families with pre-school or school-aged children** (i.e. all dependent children under 18, using the definition of a dependent child already used for public housing purposes).²⁴
- 52 MSD already holds information on the age of children in tenancies, so the exemption will not be overly difficult to administer. It will also be easy for public housing tenants to understand.

Such an exemption would exempt 16,223 tenancies (28 per cent) from being selected for a tenancy review

- 53 There are 12,381 tenancies with at least one school-aged child, and a further 3,392 with at least one pre-school child.

Taken together, the exemptions would reduce the pool of tenants able to be selected for a tenancy review by around 26,340 tenancies (a 45 percent drop)

- 54 Collectively, the proposed exemptions will reduce the pool of tenancies able to be selected for a tenancy review by around 26,340 – a reduction of 45 percent from the current pool of 58,667 tenancies. This would leave around 32,320 tenancies still able to be considered for a tenancy review.

¹⁸ A Stocktake of New Zealand's Housing, Feb 2018

¹⁹ Growing up in NZ: Residential Mobility Report 1 – Moving house in the first 1000 days (2014).

²⁰ Productivity Commission Housing Affordability Inquiry (2012)

²¹ AHURI, Research and Policy Bulletin, Issue 78, Aug 2006, 'How does security of tenure impact on public housing tenants?'

²² Growing up in NZ: Residential Mobility Report 1 – Moving house in the first 1000 days, (2014).

²³ Developmental timing of housing mobility: longitudinal effects on externalising behaviours among at-risk youth, (2013), and Housing mobility and cognitive development: change in verbal and non-verbal abilities' (2015).

²⁴ A dependent child is someone who is aged under 18 years (unless they are aged 16 or 17 years and are financially independent) or is aged 18 years and financially dependent and attending school or tertiary study), and primarily the responsibility of the signatory or their partner, and being maintained as a member of that family, and financially dependent on the signatory or their partner. They must also be in the care of the signatory or their partner for 6 or more nights over a 14 day period.

- 55 On this basis, we recommend that the following groups be exempted from being selected from tenancy reviews:
- tenancies where the signatory or their partner is aged 65 – 74 years
 - tenancies where the signatory or their partner has simplified access to SLP
 - tenancies where there is a 'dependent child' aged 18 years and younger.
- 56 We also recommend that the current exemptions relating to persons aged 75 years and over, lifetime tenure, and assured tenancy all remain but that the current exemption for those in modified houses be discontinued.
- 57 Appendix 1 outlines the exemption options that have been considered but not preferred.

A key policy choice is whether you wish tenancy review exemptions to mean eligibility cannot be reviewed under any circumstance

- 58 We would like to discuss whether you intend tenancy review exemptions (for both proposed new groups and current exempt groups) to mean:
- a. Eligibility of any tenant in exempt groups cannot be reviewed under any circumstance (including for example where a tenant has provided misleading information about their circumstances to MSD, or has failed to notify MSD of a change in circumstances which may affect eligibility); OR
 - b. (MSD preference): tenants in exempt groups cannot be selected for tenancy review, but if MSD obtains information that indicates the tenant may no longer be eligible (for example through notification by the tenant, through a property suitability assessment or investigation under section 121 of the HRTMA, MSD is still able to review the tenant's eligibility. If the tenant is no longer eligible, MSD can initiate support to transition into alternative housing.
- 59 MSD's preference is for option b above, as it would retain the ability for MSD to review eligibility in particular circumstances, and ensure that the integrity of the public housing system is maintained. We anticipate that this ability would be used relatively rarely.

Assured tenancies are not suited to being a means of exempting groups from tenancy reviews

- 60 Consideration was also given as to whether assured tenancies, which defer a tenancy review for a set period, might be a useful mechanism for managing time-bound tenancy review exemptions. Assured tenancies however, serve a distinct purpose – that of deferring tenancy reviews while tenants work with other groups or organisations to get them better outcomes, such as working with the Oranga Tamariki/Ministry for Children.
- 61 Exemptions however, don't relate to behaviour – they simply determine whether a tenant is the member of a specific group. Assured tenancies are therefore, not suited as a means of exempting specific groups from tenancy reviews.

Legal advice – s 9(2)(h)

62 s 9(2)(h)

63

64 s 9(2)(h)

s 9(2)(h)

65 s 9(2)(h)

66

67

Unintended consequences and review

- 68 MSD would need to monitor the impact of changes to tenancy review exemptions, and any unintended consequences. This includes monitoring whether some tenants adjust their circumstances to become exempt (or remain exempt) from being selected for a tenancy review. For example, MSD would need to identify any trends in older tenants suddenly becoming signatories, more people seeking simplified access SLP, or having dependent children remain in the household in order to continue to be exempt.
- 69 Government has priorities to improve the private rental market and also significantly increase the supply of affordable housing. Significant progress in these areas over the next few years should increase the range of alternative secure and affordable housing options available to public housing tenants. We therefore recommend that the need for tenancy review exemptions for each exempt group be reconsidered in three years time.

Next steps and timing

- 70 Following discussion with you on proposed exemptions, MSD will report back in early May seeking your decisions on consequential matters around the number of tenancy reviews and property suitability reviews to be undertaken, operational costs and impacts, and feasible implementation timeframes. Tenancy reviews based on the new exemptions could potentially restart prior to finalisation of a new MSD process for reviewing housing needs (i.e. property suitability).
- 71 If you agree to the proposed further exemptions, MSD recommends that you issue a Ministerial Direction on tenancy review exemptions under the HRTMA. MSD's legal team will draft the Direction, based on your decisions regarding the recommendations in this report. For transparency, we recommend that the Ministerial Direction cover all exempt groups (i.e. current groups plus any further exempt groups). We will provide a Ministerial Direction with our report in early May and will also work with your office at that point on a plan to announce the changes.

²⁵ A review of property suitability can also occur at any time upon application from the tenant, or the public housing provider.

- 72 Before issuing a Ministerial Direction, you may wish to consider consulting Cabinet colleagues on proposed changes to tenancy reviews. This is because of the significant implications for the Housing Register and Government's priority of reducing homelessness. If you decide to seek Cabinet agreement to the changes, MSD will prepare a Cabinet paper and announcements would follow Cabinet decisions.
- 73 Following implementation, MSD will monitor the impact of further exemptions from tenancy reviews, including any unintended consequences. We also suggest that the need for tenancy review exemptions for each group be reconsidered in three years time, as significant progress on improving the private rental market and increasing affordable housing should make alternative secure and affordable housing options more available to public housing tenants.

File ref: REP/18/2/191

Author: s 9(2)(a) Housing Policy

Responsible Manager: s 9(2)(a) Policy Manager, Housing Policy

APPENDIX 1 – Options Considered

| Group | Proposed to Exempt? | Comments |
|--|---------------------|---|
| Signatory or partner aged 75+ | Yes | Current exemption – to be retained (5,586 tenancies) |
| Signatory or partner with lifetime tenure | Yes | Current exemption – to be retained (37 tenancies) |
| Signatory or partner with assured tenancy – <u>deferred</u> for three years | Yes | Current exemption – to be retained (currently around 260 tenancies are deferred) |
| Signatory or partner aged 65 – 74 years | Yes | New exemption - (9,188 tenancies) |
| Signatory or partner receiving SLP (excluding caregivers) | Yes | New exemption - (3,279 tenancies) |
| Signatory or partner with dependent child aged 18 or younger | Yes | New exemption - (16,223 tenancies) |
| Group | Proposed to Exempt? | Comments and reason for not exempting |
| Signatory or partner in a modified house | No | Current exemption – to be <u>removed</u> as focuses on the property rather than the disabled tenant and their needs. Most will be exempted under the SLP exemption above. (2,345 tenancies) |
| Signatory or partner receiving a SLP but needing a re-assessment <i>Tenants get medically re-assessed where it is reasonable to expect that the impact of their permanent health condition or disability may change over time and the client's capacity for work may improve. This could be because their condition improves, or they become better at managing the impact on their capacity to work over time.</i> | No | Not preferred – too broad, doesn't target the most severe of disabilities (7,875 tenancies) |
| Signatory or partner receives ACC instead of the SLP | No | Difficult to administer – would need to use medical information to assess if the person meets the SLP medical definition. A person on ACC is likely to be receiving more money than someone on SLP. Also, ACC cases are often short term in nature whereas SLP is long-term. |
| Signatory or partner receiving SLP as a | No | Not preferred – too broad. While a tenant may be |

| | | |
|--|----|--|
| <p>caregiver</p> <p><i>Can be caregivers to some of the most disabled persons. For example, a parent can receive the SLP on behalf of their severely disabled adult child and act as their agent in receiving the benefit.</i></p> | | <p>caring for a severely disabled person, it doesn't necessarily follow that the household is vulnerable.</p> <p>Administration would be difficult. Ministry systems cannot identify which caregivers are parents receiving SLP to care for their severely disabled adult child versus caregivers who don't live in the same household as the disabled child.</p> <p>(1,715 tenancies – although will be an over-estimate as families with children aged 18 years and younger are proposed to be exempted)</p> |
| <p>Signatory or partner receiving a Child Disability Allowance</p> | No | <p>Not a good proxy for children with severe disabilities. This group will be covered under the 'families with dependent children' exemption.</p> <p>(3,424 tenancies)</p> |



Report

Date: 28 February 2018

Security Level: IN CONFIDENCE

To: Hon Phil Twyford, Minister of Housing and Urban Development
REP/18/2/213

This report may contain legal advice and be subject to privilege. It should not be disclosed on an information request without further legal advice.

Implementing the pause on tenancy reviews

Purpose of the report

- 1 The report outlines how best to implement your decision to enact a pause on tenancy reviews. It provides information on potential approaches, and discusses the next steps needed to carry out your decision.

Recommended actions

It is recommended that you:

- 1 **note** that the Ministry of Social Development has taken operational steps to implement the pause on tenancy reviews
- 2 **note** that the pause on tenancy reviews has not had an impact on other parts of the Ministry of Social Development's housing operations
- 3 **note** that Crown Law has advised that there is s 9(2)(h)
s 9(2)(h)
- 4 **note** that we expect to provide a report to you by mid-March 2018 with advice on the potential to exempt the groups you have identified
- 5 **agree** for the Ministry of Social Development to continue to implement the pause on tenancy reviews either:

5.1 without a Ministerial Direction (recommended)

OR

5.2 with a Ministerial Direction

AGREE / DISAGREE

AGREE / DISAGREE

- 6 **agree** to publically announce the pause on tenancy reviews through a press release on the Beehive website once staff and the Public Service Association have been informed

AGREE / DISAGREE

- 7 **agree** to forward this report to the Minister for Social Development.

AGREE / DISAGREE



Sandra Preston
General Manager Housing
Ministry of Social Development

28/2/18

Date



Hon Phil Twyford
Minister of Housing and Urban Development

12.3.18

Date

You have made the decision to pause all tenancy reviews for the purpose of undertaking further policy work on exemptions

- 1 The Ministry of Social Development (MSD) commenced tenancy reviews in 2014 to ensure the right people are in the right house for the duration of need. All tenants, unless they fall into one of the three exempt groups, are subject to a tenancy review every three years. The reviews assess continuing eligibility and whether the property meets their needs. An assessment of Income-Related Rent Subsidy is undertaken annually via a separate MSD process.
- 2 You have previously indicated that, while public housing¹ is not intended to be a house for life, certain groups of vulnerable tenants (older people, disabled people, and households with school-aged children) should not be the subject of tenancy reviews when they are likely to remain eligible for public housing.
- 3 Exemptions from tenancy reviews currently exist for those in houses modified for their needs, those aged 75 and older, and those with agreed lifetime tenure – as agreed with Housing New Zealand (HNZC). Assured tenancies, which defer tenancy reviews for a period of time, also exist for households who are working with a Children's Team in Oranga Tamariki, Ministry for Children.
- 4 The exemptions improve administrative efficiency by excluding tenants from selection if they are likely to have continuing eligibility for public housing.
- 5 You agreed for MSD officials to undertake further work to review the groups of tenants that could be exempt from tenancy reviews or be given assured tenancies.

MSD has taken operational steps to implement your decision to pause all tenancy reviews

- 6 As an interim arrangement, you agreed [REP/17/12/1233 refers] that all tenancy reviews should be put on hold until further policy decisions are made on vulnerable client cohorts to be excluded from tenancy reviews.
- 7 MSD expects to report back to you by mid-March 2018 with options on potential vulnerable client cohorts who could be made exempt from tenancy reviews, in particular people aged 65 or over, disabled people and households with school aged children.
- 8 MSD has instructed frontline staff and Housing Case Managers to pause all tenancy reviews until further notice.
- 9 Since November 2017, HNZC has not issued or enforced any 90 day notices to tenants who have been deemed ineligible for public housing as a result of a tenancy review.

MSD will continue other Public Housing activities that are not affected by the pause on tenancy reviews

- 10 While tenancy reviews are paused, MSD will continue to:
 - assess clients' initial eligibility for public housing – people who meet the eligibility criteria will be placed on the social housing register
 - determine and review clients' housing needs (housing requirements) – this is undertaken at initial application to ensure the client is matched by the public housing provider to a property that meets their housing requirements and also when a current tenant or public housing provider asks for MSD to undertake an assessment of their housing needs

¹ The term 'public housing' is now used instead of 'social housing' as defined in the Housing Restructuring and Tenancy Matters Act 1992.

- regularly review clients' eligibility for public housing while they are on the social housing register waiting to be allocated a public house (register management) – this is to establish that they still require public housing, determine if their details are current, determine if their circumstances have changed and promote alternative housing solutions where appropriate
- remove clients from the social housing register where they have declined an offer of a suitable property from a public housing provider without a good and sufficient reason
- calculate and administer the payment of Income-Related Rent to eligible clients in public housing – this includes an annual review of Income-Related Rent to ensure the client is paying the correct amount and to review Income Related Rent when the client has a change in circumstance.

11 These activities are not affected by the pause on tenancy reviews.

There will be some staffing implications associated with the pause

- 12 Case Managers Housing complete tenancy reviews as a component of their role. During the pause period they will no longer be required to do this, which will have an impact on the number of staff required during the pause. Some staff will have secondments ended, while others may have fixed term contracts ended. MSD will communicate with Case Managers Housing involved in tenancy reviews and inform the Public Service Association. This will be included in the communications plan.
- 13 When the review of exemptions is complete, MSD will need to reassess the level of staffing needed to deliver tenancy reviews with the new criteria. MSD estimates that it will take approximately three months to recruit and train sufficient staff to deliver tenancy reviews at full capacity once decisions are made.
- 14 We will provide advice to you in mid-March on further exemptions. Assuming decisions are made by the end of March we recommend the pause remain in place until June 2018. This allows time for MSD to organise staffing arrangements to resource reviews when they start again. However, this is dependent on when decisions are made.
- 15 We will provide you with more information on this when the review of exemptions is complete.

The pause will influence the housing register

- 16 Over the last two quarters where data is available² around 50 public housing tenancies ended per quarter as a result of tenancy reviews³. MSD anticipates that a similar number of public housing tenancies would have otherwise ended over the March quarter if tenancy reviews were still commencing. This means the pause may contribute to growth in the Social Housing Register in the lead up to winter.

Legal advice indicates there is s 9(2)(h)

s 9(2)(h)

17 s 9(2)(h)

² The June 2017 quarter and September 2017 quarter, there is a quarterly delay in the data on tenancy exits in order to provide confidence in the outcome achieved.

³ It is difficult to determine how many people would potentially be able to move into these placements as there is no assurance that a Tenancy End results in a new placement. Sometimes the property may be used for a provider transfer or held vacant for repairs or maintenance. However, it would be safe to assume the pause will reduce the amount of public housing places available for new vulnerable tenants entering public housing to an extent.

We recommend continuing without a Ministerial Direction

- 23 MSD recommends that you continue with the pause without a Ministerial Direction, and publically announce the pause and review of exemptions to ensure transparency of the process. Key messages for an announcement are provided in Appendix 1.

There is a group of tenants who were engaged in tenancy reviews when the pause began

- 24 Before the pause, there was a group of 2,089 tenants in various stages of the tenancy review process. These are broken down in Appendix 2.
- 25 Of the 2,089 tenants, there are two groups who have had their tenancy reviews paused close to the final stages of the review:
- **322 clients in the transition period stage:** the tenant has been found to be no longer eligible for public housing, and has been advised of the outcome. A three month transition period is in place, providing the tenant sufficient time to lodge a Review of Decision. After this time, the public housing provider would be advised that the tenant is no longer eligible for public housing.
 - **39 clients in the 90 day notice stage:** the tenant's housing provider is advised that the tenant is no longer eligible for public housing. In the usual course of events, the housing provider would commence issuing a 90 day notice to the tenant to vacate the property. However, this has not been occurring during the pause period as the sole provider is HNZN and they have put a pause on issuing 90 day notices⁴.
- 26 Clients in these final stages of the review will not be required to complete the tenancy review until after the changes from the review of exemptions is implemented.

⁴ HNZN had issued 90 day notices for 23 of these tenants that were revoked.

- 27 Although these groups of clients are technically ineligible for public housing on the basis of the current criteria, the public housing provider is still receiving Income-Related Rent Subsidies for their properties as they have not been asked to vacate the property. Legal advice has confirmed there is s 9(2)(h)
- 28 After the pause has been lifted, due to the length of time that will have passed from when a decision was made that the person was ineligible and the action being taken, MSD will review their circumstances to see if there are any reasons that they might have become again eligible for public housing.
- 29 For the 322 clients in the transition period stage, if there are no new circumstances that alter their eligibility, a new three month transition period will begin. After this time, the public housing provider would be advised that the tenant is no longer eligible for public housing.
- 30 For the 39 clients in the 90 day notice stage, if there are no new circumstances that alter their eligibility, the public housing provider can then issue a 90 day notice. While the issuing of the 90 day notice is the responsibility of (and at the discretion of) the public housing provider MSD's expectation is that the public housing provider will act on the assessment they are no longer eligible for public housing.
- 31 As part of the communications plan we will develop communications for tenants in the different phases of the review process to ensure they are informed and that they understand what it means for them.

We recommend that an announcement is made on the pause and review as part of a communications plan

- 32 MSD is working on a communications plan to announce the pause on tenancy reviews, and any changes that come from the review of exemptions. This plan includes communications for staff, providers and tenants. The pause could cause uncertainty and it is important for MSD to provide as much certainty as possible.
- 33 We recommend that you publish a press release on the Beehive website, outlining the reasons for the pause of the tenancy review process, and key messages around the process. MSD has provided some key messages in Appendix 1, should you wish to use them. We will work with your office around the timing of any press release, as staff and the Public Service Association should be informed prior to a public announcement.

Next steps

- 34 MSD will continue to operationally manage the pause of tenancy reviews through the interim arrangements that are currently in place.
- 35 We will work with your office to provide communications material for the announcement of the pause to tenancy reviews, and the subsequent changes to exemptions.
- 36 If you decide to pursue a Ministerial Direction to formally capture the pause of tenancy reviews in the HRTMA, MSD can provide you with further advice on this option.
- 37 MSD continues to work on reviewing the exemptions for tenancy reviews, and will provide further advice on the potential exempt groups you identified by Mid-March 2018.
- 38 We recommend you forward a copy of this report to the Minister for Social Development due to the potential impact on staffing arrangements.

File ref: A10286807

Responsible Manager: s 9(2)(a) Policy Manager, Housing

Author: s 9(2)(a) Graduate Policy Analyst, Housing

Appendix 1

Key messages for public announcement on pause of tenancy reviews

Announcement

- The Minister of Housing and Urban Development has decided to review which groups of public housing tenants should be exempt from periodic tenancy reviews.
- All tenancy reviews are on hold until June 2018 while the Ministry of Social Development completes the review.
- While public housing is not intended to be a house for life, it is important we recognise that some vulnerable groups of tenants will need secure public housing and support for a long time.
- The review will make sure that the right tenants are protected, do not need to undergo tenancy reviews, and do not move into private housing when it is not a good fit for them.

Tenancy reviews

- While government and communities work to increase the supply of public houses, it is important that quality public housing and support is available for people with most need for as long as they need it.
- Tenancy reviews determine whether a person or family still needs public housing and makes sure they are in a house that meets their current needs.
- When a person or family is ready for more independence, government agencies can support them to rent or buy in the private sector. This frees up public housing places for those with most need for it.
- Since 2014, more than 1,300 households have moved to private rentals or bought their own homes.
- Currently, all tenants are subject to a tenancy review every three years except for certain groups. These include people 75 and older; people whose house is modified for their needs such as wheelchair access; and households working with a Children's Team in Oranga Tamariki, Ministry for Children.

Tenants currently undergoing a tenancy review

- The Ministry and housing providers will contact tenants who are currently engaged in the tenancy review process so they know what it means for them. All tenancy reviews are on hold until the end of June 2018 when the new exemption criteria are in place.
- For tenants who have been through a tenancy review and advised that they are no longer eligible for public housing:
 - no 90 day notices will be issued or enforced for tenants while tenancy reviews are on hold
 - when the hold is lifted, MSD will conduct new reviews for any of these tenants that may be eligible under the new exemptions.

Tenancy reviews background

- While government and communities work to increase the supply of public houses, it is important that public housing is available for the people who need it most, for as long as they need it.
- Tenancy reviews free up public housing places for those with most need.
- Tenancy reviews determine whether a person or family still needs public housing and makes sure they are in a house that meets their current needs.
- When a person or family is ready for more independence, government agencies can support to rent or buy in the private sector.
- Since 2014, more than 1,300 households have moved to private rentals or bought their own homes.
- Currently, all tenants are subject to a tenancy review every three years except for certain groups. These include people 75 and older; people whose house is modified for their needs such as wheelchair access; and households working with a Children's Team In Oranga Tamariki, Ministry for Children.

Appendix 2

Breakdown of the stages of the Tenancy Review process, and the number of clients in each group as at 31st January 2018

| Stage | # | Description |
|-----------------------------|-------------|--|
| Initial engagement stage | 782 | The tenant has been selected for Tenancy Reviews and MSD has made an initial contact with the tenant by letter to begin engagement. |
| Independence planning stage | 683 | Following Tenancy Review selection and engagement, the client has made contact with MSD and is working with a Case Manager Housing. This planning generally includes the tenant undertaking agreed steps to find alternative housing. |
| Formal review stage | 263 | Following engagement and planning, a Formal Review will determine the tenant's ongoing eligibility for public housing. MSD is likely to determine non-eligibility unless there is a significant change to the household's circumstances. |
| Transition period stage | 322 | <p>Following the Formal Review, the tenant has been found to be no longer eligible for public housing, and the tenant has been advised in writing of the outcome. A three month transition period is in place, providing the tenant sufficient time to lodge a Review of Decision.</p> <p>Once the three month transition period has ended, the housing provider will be notified of the outcome of the Tenancy Review.</p> |
| 90 day notice stage | 39 | <p>Following the completion of the three month transition period, the tenants housing provider is advised that the tenant is no longer eligible for public housing.</p> <p>In the usual course of events, the housing provider would commence issuing a 90 day notice to the tenant to vacate the property. However, this has not been occurring during the pause period as the sole provider is HNZN and they have put a pause on issuing 90 day notices.</p> |
| Grand Total | 2089 | |



Report

Date: 8 June 2018

Security Level: IN CONFIDENCE

To: Hon Phil Twyford, Minister of Housing and Urban Development

Update on tenancy review exemptions

Purpose of the report

- 1 This report responds to your request for further information on the impact of the proposed exemptions (on both tenants and exit rates), and updates you on the number of tenants proposed for exemption from tenancy reviews.

Recommended actions

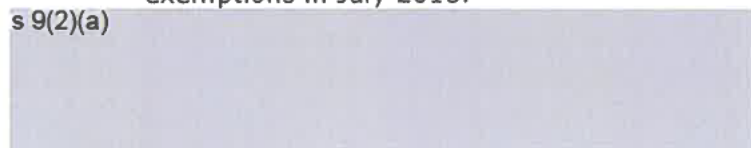
It is recommended that you:

- 1 **note** that you agreed in principle in March 2018 that, subject to Cabinet approval and further information you requested on the impact of the proposed exemptions, the following tenants should be exempted from tenancy reviews by means of a Ministerial Direction:
 - those aged 65 years or over
 - those with 'simplified access' to the Supported Living Payment
 - those with a dependent child aged 18 years or younger [REP/18/02/191 refers]
- 2 **note** that we have updated our figures on the proposed exemptions and identified that more families with one or more dependent children aged 18 years or younger would be exempt under the proposed exemptions (30,177 tenancies rather than 16,223 tenancies)
- 3 **note** that 8,967 tenancies (14 percent of all tenancies) are currently exempt from review, and this will increase to 46,393 tenancies (71 percent of all tenancies) if the proposed exemptions proceed
- 4 **note** that the proposed exemptions will leave 18,795 tenancies (29 percent of all tenancies) able to be selected for a tenancy review
- 5 **note** that even with the higher number of exemptions, MSD still considers that there is a clear case for exempting the three proposed groups from tenancy reviews
- 6 **note** that if the proposed exemptions proceed, modelling suggests that the exit rate for tenancies still eligible for review could increase from 20 percent to 29 percent
- 7 **agree** that the three proposed groups of tenants still be exempted from review

Agree / ~~Disagree~~

8 **note** that if you agree, we will provide you with a Cabinet paper on tenancy review exemptions in July 2018.

s 9(2)(a)



s 9(2)(a)

Policy Manager, Housing Policy
Ministry of Social Development

A handwritten signature in blue ink, appearing to be 'PT', is written over a horizontal line.

Hon Phil Twyford
Minister of Housing and Urban Development

8/6/18

Date

11.6.18

Date

You agreed to extend tenancy review exemptions to cover additional groups of public housing tenants, and directed further work to be undertaken to progress this

- 1 In March 2018, we provided you with advice [REP/18/02/191 refers] on the case for three further groups of public housing tenants to be exempted from tenancy reviews by means of a Ministerial Direction under the Housing Restructuring and Tenancy Matters Act 1992 (HRTMA):
 - tenancies where the signatory or their partner is aged 65 years or over [*this would **replace** the current exemption for tenants aged 75 years or over*]
 - tenancies where the signatory or their partner has simplified access to the Supported Living Payment (SLP) [*this would **replace** the current exemption for tenants in modified housing, as it better targets people with disabilities*]
 - tenancies where there is at least one 'dependent child' aged 18 years or younger.
- 2 On 26 March 2018, you discussed the advantages and disadvantages of exempting the above three groups with officials.
- 3 You agreed to exempt these groups subject to further work on the impact of the proposed exemptions on the Social Housing Register, in light of the significant and increasing pressure for public housing places. As at 31 March 2018, there were 9,695 applicants on the Social Housing Register.
- 4 You also asked for a Cabinet paper to be drafted to test the proposal with your Cabinet colleagues, due to the potential impact of the proposed exemptions.
- 5 In the course of the discussion, officials raised that MSD had been unsuccessful in securing the full amount of funding sought through Budget 2018 to address cost pressures for frontline resourcing, and to meet increasing demand for housing services. We indicated that this could have implications for continuing with the current rate of tenancy reviews (around 3,000 per year).
- 6 In light of Budget 2018 decisions, this paper also provides you with information on the estimated impact that MSD undertaking fewer reviews would have on public housing exit numbers.

Current settings around public housing tenancy reviews

- 7 Sections 117 and 118 of the HRTMA provide powers to review a tenant's continued eligibility for public housing, and to review their "housing needs" (ie property suitability). Both these reviews are carried out as part of MSD's tenancy review process.
- 8 The purpose of the tenancy review process is to ensure the right people are in the properties best suited to them for the duration of their need. Tenancy reviews are also fundamental to the effective utilisation of public housing, in that they can free up more supply as tenants become able to move into the private market, or transfer to another property better suited to their need.
- 9 As at December 2017, there were 65,188 public housing tenancies. Of these, three groups of public housing tenancies (8,967 tenancies, or 14 percent of all tenancies) are currently exempt from tenancy reviews, as they are highly likely to have continued eligibility for public housing:
 - those in which the signatory or their partner is aged 75 years or older
 - those in houses modified for their needs, eg wheelchair-accessible properties
 - those with agreed lifetime tenure with Housing New Zealand Corporation (HNZC).

- 10 Exemptions look to strike a balance between providing stability for public housing tenants, and ensuring places are available for people on the Social Housing Register.
- 11 Operationally, tenancy reviews target groups who are least likely to have continued eligibility for public housing, or who are in a house not best suited to their need. In practice, this means there is a higher priority placed on reviewing tenants paying market rent or near-market rent, and tenants living in under-utilised properties. A tenant outside of these groups may rarely (if ever) have a tenancy review.
- 12 However, all public housing tenants, including those exempt from review, are required to inform the Ministry of Social Development (MSD) if their circumstances change in a way that could impact their eligibility for public housing.
- 13 Currently, around 56,221 tenancies (86 percent of all public housing tenancies) are able to be selected for a tenancy review.
- 14 MSD is currently funded to undertake 3,000 tenancy reviews per year. At this rate, a tenant can potentially face having a tenancy review roughly once every **eighteen** years (although the MSD website states that public housing tenants can expect to be contacted for a tenancy review every three years).¹
- 15 On 29 March 2018, you publicly announced that tenancy reviews would be paused until the end of June 2018, while you consider whether the groups of tenants exempt from the review process should be widened.

In undertaking further work, we have identified that more families with dependent children would qualify for exemption

- 16 We have undertaken further analysis of the data relating to the three further cohorts proposed for exemption, and impacts of estimated exit rates.
- 17 We originally estimated there were approximately 16,223 tenancies with a dependent child who would be exempt from review. In undertaking further work, we identified there were additional families with dependent children who would be exempt from review.
- 18 When analysing the data at the time, the dependent children group was broken down into three age categories (0-4 years, 5-13 years, and 14+ years) to identify potential sub-groups (eg pre-school aged children). However, only families with a child in one of those categories (rather than families with children in more than one category) were identified. Our revised figures of 30,177 families (an additional 13,954 tenancies) cover families with dependent children in one or more categories.
- 19 The proposed exemptions would collectively result in **46,393 tenancies**² (71 percent of all tenancies) being exempted from tenancy reviews, leaving **18,795 tenancies** (29 percent of all tenancies) available to be considered for review.
- 20 The following table highlights the difference between current exemption figures, the figures provided to you previously, and our updated figures.

¹ <http://www.housing.msd.govt.nz/forms/factsheets/tenancy-reviews-for-social-housing-tenants.html>

² Note that any tenants who fall into more than one of the exemption categories have only been counted once. Appendix One provides further detail on group sizes and total numbers.

Figure 1: Comparison of current exemption figures, previous advice and updated exemption figures

| Exemption figures | No. of tenancies <i>exempt</i> from tenancy reviews | No. of tenancies <i>eligible</i> for tenancy reviews |
|--|---|--|
| Baseline figures (pre-pause) | 8,967 (14 percent of all tenancies) | 56,221 (86 percent of all tenancies) |
| Initial figures for the three proposed groups (March 2018) | 32,868 (50.5 percent of all tenancies) | 32,320 (49.5 percent of all tenancies) |
| Updated figures (May 2018) | 46,393 (71 percent of all tenancies) | 18,795 (29 percent of all tenancies) |

We have reassessed the case for each of the proposed exemptions

- 21 Given our updated data shows more tenancies would be exempted, we have reassessed the case for each of the proposed exemptions.

Impact of tenancy reviews on proposed exempt groups

- 22 Of the 7,170 tenancy reviews completed between January 2015 and March 2018, 1,410 (20 percent) resulted in an exit from public housing, with 5,750 (80 percent) of tenancies found to still be eligible for public housing.
- 23 We have undertaken more detailed analysis on exit rates as a result of tenancy reviews for each group proposed for exemption.

Figure 2: Analysis of tenancy reviews on groups proposed for exemption³

| Proposed group for exemption | Reviews completed of group between January 2015 and March 2018 | Number of exits as a result of the reviews | Percentage of exits as a result of the reviews |
|--------------------------------------|--|--|--|
| Tenants with disabilities | 534 | 16 | 3 percent |
| Families with dependent children | 1,074 | 58 | 5 percent |
| Tenants aged between 65 and 74 years | 1,466 | 149 | 10 percent |

- 24 This data shows each of the proposed exempt groups have significantly lower rates of exit than the baseline exit rate of 20 percent, particularly tenants with disabilities and families with dependent children.

³ There are some differences between how the exemption populations and the exit data were defined. However, the differences should be immaterial and they are broadly in line with the definitions set out in the report.

There is still a strong case for exempting tenants with significant disabilities

- 25 People with disabilities living in public housing are highly likely to continue to be eligible for public housing for several reasons relating to affordability and accessibility. Security of tenure is also particularly important for this group.
- 26 The revised exemption is better targeted than the current exemption, which only targets properties.
- 27 For clarity, this exemption would cover all public housing tenants in receipt of Supported Living Payment, whose capacity to work will never have to be reassessed – as not all current clients who fit this criteria are tagged in MSD's systems as having 'simplified access' to SLP.
- 28 The 534 tenancy reviews of tenants with a known disability (categorised as SLP never reassessed) since January 2015 only resulted in 16 (3 percent) of those exiting public housing. This exemption would exempt an estimated **3,280** tenancies.

There is still a strong case for exempting families with dependent children (both school and pre-school aged)

- 29 Tenants with dependent children are very likely to remain eligible for public housing. The majority of this cohort is not close to paying market rent, and therefore they are less likely to be able to be in a position to move into the private market. Further, research commonly indicates that families with children are disproportionately affected by insecurity of tenure.
- 30 The 1,074 tenancy reviews of families since January 2015 only resulted in 58 (5 percent) of those exiting public housing. Proceeding with this exemption would exempt an estimated **30,177** tenancies.
- 31 Consideration was given to limiting the scope of the dependent child exemption to only cover school-age children. This would be on the basis that the most significant impact of a lack of security of tenure is on educational outcomes. Removing families with only pre-school children from the proposed exemption would only increase the number of tenancies able to be considered for a tenancy review by around 3,400. Such a move would also have flow-on effects on the proposed disability exemption, which would need to be re-visited to assess the impact on pre-school children with disabilities (who would otherwise have been covered by the proposed dependent child exemption). This would add unnecessary complication and so is not favoured.

There is also a strong case for exempting older tenants aged 65 to 74 years

- 32 Although the exit rate for this group is higher than for the two other proposed groups, it is still around 50 percent lower than baseline. Tenants in this age group are very likely to continue to be eligible for public housing, as it is more likely that they will not be working, have superannuation as their only source of income, and will not be close to paying market rent.
- 33 The 1,466 tenancy reviews completed on tenants aged 65-74 years since January 2015 only resulted in 149 (10 percent) of those exiting public housing.
- 34 If this exemption **replaces** the current exemption for tenants aged 75 years and over, around **14,532** tenancies would be exempt (tenants aged 65-74 years would be added to the current exemption).

Impact of proposed exemptions on exit rates from public housing

- 35 The demand for public housing is significant and growing. As at March 2018, there were 7,980 people on the Housing Register (the register), up from 6,182 in the quarter to 31 December 2017. This is the highest level the register has been at since public housing system changes were implemented in April 2014.

- 36 Our data shows exits from public housing are slowing. This is due to a mix of flat incomes for public housing tenants, an ageing tenant population, differing incentives between accommodation support products, and rising unaffordability of housing in the private market. Slowing exits have a flow-on impact to the register in that:
- it takes longer to house people who are on the register
 - the bottleneck around availability of public housing places contributes to faster growth of the register.
- 37 In the current climate, it is key to understand the impact of exemptions in terms of the number of public housing places becoming available.

Tenancy reviews are not the main driver of exits from public housing

- 38 Most exits from public housing are not due to the tenancy review process. Around 94.5 percent of the 25,721 exits from public housing between January 2015 and March 2018 were **not** directly attributable to a tenancy review.
- 39 Our modelling for the 2016/17 year shows that, of the tenancy reviews in that year resulting in an exit from public housing:
- the majority of sustained exits from public housing were people who were already paying market rent, or close to it
 - 89 percent of tenants who left public housing were not receiving further accommodation support after 12 months, including Accommodation Supplement.

The proposed exemptions could potentially result in higher exit rates as a result of the tenancy reviews that we undertake

- 40 Exemptions can improve administrative efficiency by excluding tenants from review if they are likely to continue to be eligible for public housing.
- 41 Because the proposed exemptions would leave a pool of tenants available for review who collectively are less likely to have continued eligibility for public housing, it is possible that the targeting of reviews to this group could result in higher exit rates.
- 42 Our modelling suggests that exit rates resulting from tenancy reviews could potentially increase from the current rate of 20 percent to **29 percent** (assuming that current rates of exit from reviews of those not exempt are maintained).
- 43 Further, you agreed that even if a tenant is exempt from review, MSD would still be able to review their eligibility for public housing, for example through notification by the tenant, through a property suitability assessment or investigation under section 121 of the HTRMA [REP/18/02/191 refers].
- 44 In response to your request for more detail on the impact of reviews on exit rates, we have developed the following scenarios modelling the potential impact on exit rates if MSD were to a) **maintain** or b) **reduce** the frequency of tenancy reviews (Figure 3 refers).
- 45 The availability of MSD frontline resourcing will determine how many tenancy reviews can reasonably be undertaken once the current pause is removed.

Figure 3: Potential impact of reducing tenancy reviews on exit numbers

| <i>Number of tenancy reviews undertaken per annum</i> | <i>Predicted number of exits if no further exemptions (baseline exit rate is 20 percent per annum)</i> | <i>Predicted number of additional exits if proposed exemptions proceed (+ 9 percent per annum)</i> | <i>Predicted total number of exits if proposed exemptions proceed (29 percent per annum)</i> |
|---|--|--|--|
| 3,000 reviews [current rate] (in practice, approx. 2,700 completed per annum) | 540 | 243 | 783 |
| 2,000 reviews (in practice, approx. 1,800 completed per annum) | 360 | 162 | 522 |
| 1,000 reviews (in practice, approx. 900 completed per annum) | 180 | 81 | 261 |

46 As indicated by officials in earlier discussions with you, Budget 2018 decisions could have an impact on the number of tenancy reviews MSD is able to undertake.

47 MSD did not secure the full amount of funding sought through Budget 2018 to meet increased demand for housing services. In light of Budget decisions, MSD proposes that the funding received is used to maintain frontline positions, including the same level of staff for tenancy reviews as was available prior to the pause, over putting additional resource into Centralised Unit Housing. s (9)(2)(g)(i)
s (9)(2)(g)(i)

48 We will provide you with a briefing that outlines the implications of reduced engagement. We recommend that you and the Minister for Social Development meet with officials to discuss the briefing.

Next steps

49 If you agree, we will provide you with a Cabinet paper on tenancy review exemptions in July 2018, which will reflect decisions indicated in this paper. Any announcements around exemptions and restarting tenancy reviews would follow Cabinet decisions.

File ref: REP/18/5/647

Author: s (9)(2)(a) Senior Policy Analyst, Housing Policy

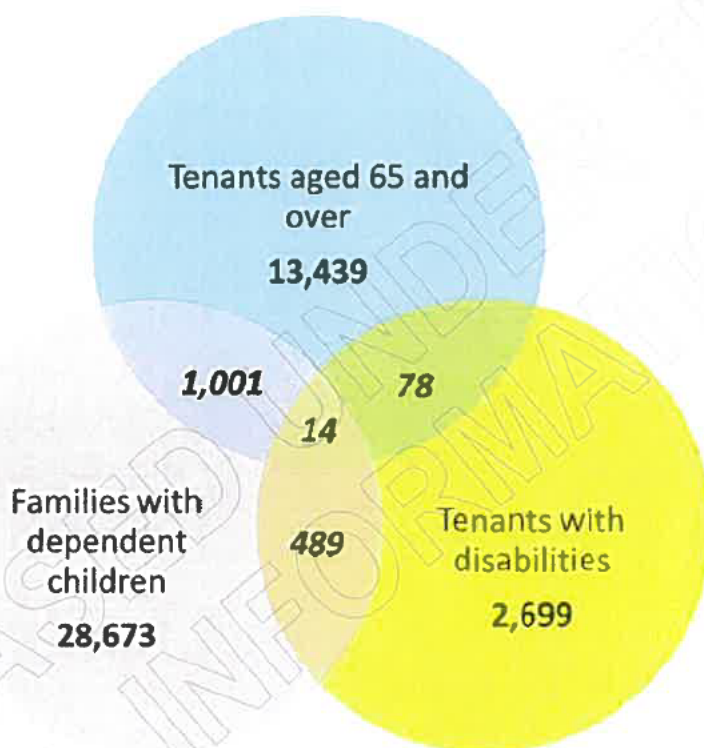
Responsible Manager: s (9)(2)(a) Policy Manager, Housing Policy

Appendix One

The below diagram illustrates:

- the size of each group of tenants proposed for exemption, using May 2018 figures
- how many people fall into one or more of the proposed exemption criteria.

Numbers of people in each group proposed for exemption



This diagram shows that there are a number of people in **more than one** of the proposed exempt groups. For example, looking at the tenants with disabilities group, 489 tenants **also** have dependent children. If you look at the dependent children group, 1,001 tenants are **also** over 65 years old.

In total, there are:

- **3,280** tenants with disabilities
- **30,177** families with dependent children
- **14,532** tenants aged 65 and over.

The total of the above numbers is more than the sum of all tenants proposed for exemption, because it includes double-counts.

The **total** number of tenants proposed for exemption from review (where people who fall into multiple categories are only counted once) is **46,393**.



Report

Date: 29 June 2018

Security Level: IN CONFIDENCE

To: Hon Phil Twyford, Minister of Housing and Urban Development

Draft Cabinet Paper: Extending Public Housing Tenancy Exemptions


Purpose of the report


- 1 This report seeks your feedback on the attached draft Cabinet paper, *Extending Public Housing Tenancy Exemptions*. The paper is intended to be lodged on 2 August, for consideration by the Social Wellbeing Committee (SWC) on 8 August.


Recommended actions

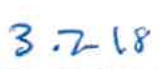
It is recommended that you:

- 1 **note** that this report seeks your feedback on the attached draft Cabinet paper, *Extending Public Housing Tenancy Exemptions*, by 3 July
- 2 **note** that agency feedback has been considered and incorporated where appropriate
- 3 **note** that, if you wish to progress this Cabinet paper to formal consultation, MSD will provide you with a revised version of the paper by 6 July to circulate for Ministerial and cross-Party consultation, to be completed by 24 July.


Sandra Preston
General Manager Housing Policy
MSD


Date


Hon Phil Twyford
Minister of Housing and Urban Development


Date

Context

- 2 The attached draft Cabinet paper seeks approval to widen exemptions from public housing tenancy reviews to cover the following groups:
 - tenants aged 65 years and older (an extension of the current exemption for tenants 75 years and older)
 - tenants with dependent children aged 18 years and under (a new exemption)
 - tenants with a permanent and severe disability who receive a Supported Living Payment from the Ministry of Social Development (MSD), and whose ability to work will never be reassessed (a replacement of the existing exemption for those living in modified properties).
- 3 You directed MSD to look at exemptions from tenancy reviews for three groups: older people, families with school-aged children, and disabled people. The scope for each of these groups has been refined, and the above categories were reached and agreed by you [REP 18/5/647, *Update on tenancy review exemptions* dated 8 June 2018 refers].

Issues raised by agencies

- 4 The following agencies were consulted on the draft paper: the Ministry of Business, Innovation and Employment, Housing New Zealand Corporation, Ministry of Health, Oranga Tamariki, Office for Disability Issues, Office for Seniors, Ministry for Women, Te Puni Kōkiri, the Ministry for Pacific Peoples and the Ministry of Justice. The Department of Prime Minister and Cabinet and the Treasury were informed.
- 5 Although the proposed exemptions have received broad support, a few agencies have raised some issues.

Targeting of the disability exemption could be too narrow

- 6 This is an issue raised by the Office for Disability Issues (ODI), Te Puni Kōkiri (TPK) in the disability space. They consider the targeting of the proposed disability exemption could be too narrow, and exclude other tenants with a health condition or disability who could benefit. There could also be a perceived inequity between the treatment of older people (broad exemption) and disabled people (narrow exemption).
- 7 MSD undertook analysis on whether the proposed exemption should apply to all tenants receiving SLP. We considered that, although there would be benefits for all SLP recipients, those who receive SLP (never reassessed) would be most likely to have **continued eligibility** for public housing. The narrow exemption will also avoid creating a disincentive for disabled people to work (paragraph 58 refers).
- 8 We intend to monitor the effects of each exemption closely, and will advise you if we consider that any of them should be broadened (paragraph 92 refers).

The paper raises questions around processes for people who may be negatively impacted by the proposed changes

- 9 ODI raised that removing the current exemption on modified properties (which is based on the features of the property, rather than a person) could pose a risk of negative publicity. This is because some people who will now be eligible for review (eg wheelchair users) are likely to still require accessible housing which may not be available in the private market.
- 10 MSD considers that paragraphs 61 and 62 of the paper, which set out the number of current tenants affected, how we will work with them if they are found to no longer be eligible for public housing, and details of communications to be undertaken to those tenants by MSD and HNZC, sufficiently addresses this concern.

- 11 TPK queried how multigenerational/extended whānau households would be impacted by the changes (eg if the primary tenant dies, and there are young people remaining in the household).
- 12 The proposed exemptions would not have any impacts for such households, as the current operational processes will still apply.

Legislative provisions for young people transitioning to independence will come into force next year, and may warrant further changes to exemptions

- 13 Oranga Tamariki (OT) has raised that two provisions under the Oranga Tamariki Act 1989 are due to come into force on 1 July 2019, covering:
 - young people aged 19-20 who have chosen to remain in 'care' under a caregiver agreement under new section 386AAD of the Oranga Tamariki Act 1989.
 - young people aged 19-24 who are entitled to support under new section 386B of the Oranga Tamariki Act as they transition to independence and who may themselves be social housing tenants.
- 14 OT has noted that extension of exemptions could be considered for these groups next year, once they have been more effectively defined and analysis has been completed. They have noted that they will be reflecting this in their advice to the Minister for Children when this paper comes before SWC.
- 15 MSD has noted OT's comments.

The paper does not specify detailed information about the groups of tenants, which will be necessary to undertake evaluation of the exemptions

- 16 The Ministry for Pacific Peoples (MPP) and ODI noted that the paper did not include figures on ethnicity of the proposed exempt groups or the number of disabled users of public housing.
- 17 We have noted in the paper that MSD will look to gather data on the numbers of disabled users of public housing (paragraphs 65 and 92 refer).
- 18 We have not addressed ethnicity in the paper, as we do not currently have ethnicity data for each proposed exempt group¹. We do consider, however, that the proposed changes are likely to have a positive impact on Māori and Pacific peoples because they make up a significant proportion of public housing tenants.

The discussion in the paper highlights the significant and growing need for public housing, and raises questions about tradeoffs in freeing up public houses

- 19 TPK considers that the broad nature of the exemptions calls into question the rationale for the approach to reviews and determining ongoing eligibility for public housing. The Ministry of Business, Innovation and Employment (MBIE) considers that the paper is not clear on the size of the impact of the proposed exemptions on the Register, and would benefit from specific numbers on this.
- 20 ODI and TPK both note that the paper highlights the increasing need for public housing, and that the key issue is one of inadequate supply. ODI notes that disabled people with access needs face significantly higher wait times (at least five times longer) for suitable housing, compared to non-disabled people.
- 21 MSD considers that the paper acknowledges, in a number of places, that there is a supply issue in both the public and private housing markets. The paper notes that building 16,000 new affordable houses over three years, and 6,400 new public housing places over four years, is a key part of the direction for addressing the supply issue.

¹ We do have overall ethnicity data for the whole public housing population. We will be able to segment the data to get ethnicity breakdowns for each group, but this will take some weeks.

- 22 The paper further notes only 5.5 percent of all exits from public housing are directly attributable to tenancy reviews, meaning the impact of the proposed exemptions on the Register is likely to be small. It also includes actuarial modelling on the potentially higher number of exits as a result of better targeted tenancy reviews, which could help offset the impact on the Register (paragraphs 73 – 79 refer).
- 23 With regard to the concerns raised by TPK, we consider the proposed exemptions strike a balance between fully realising the benefits of public housing for tenants' wellbeing outcomes, and ensuring that public housing places are available for those who need them.

Next steps

- 24 We are seeking your feedback by Tuesday 3 July, which will enable us to provide your Office with a revised draft of the Cabinet paper by 6 July.
- 25 An indicative timeline is provided below. This timeline outlines the key steps to be undertaken in order for this paper to be considered by SWC on 8 August, followed by Cabinet on 13 August.

| Date | Milestone |
|----------------------------|---|
| Friday 29 June | 1 st draft of Cabinet paper provided to you for feedback by Tuesday 3 July |
| Friday 6 July | 2 nd draft provided to your Office for review, ready for to formal consultation on Monday 9 July |
| Monday 9 – Tuesday 24 July | Formal Ministerial and cross-Party consultation to be completed and feedback provided to MSD by Tuesday 24 July |
| Monday 30 July | Final version of paper provided to you for approval by Wednesday 1 August |
| Thursday 2 August | Lodge Cabinet paper for SWC |
| Wednesday 8 August | SWC considers paper |
| Monday 13 August | Cabinet considers paper |

File ref: A10597593 - REP/18/6/945

Author: s 9(2)(a) Senior Policy Analyst, Housing Policy

Responsible Manager: s 9(2)(a) Policy Manager, Housing Policy

Aide-mémoire



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

Cabinet paper

Date: 31 August 2018

Security Level: Cabinet Sensitive

For: Hon Phil Twyford, Minister of Housing and Urban Development

File Reference: REP/18/8/251

Extending Public Housing Tenancy Review Exemptions

Cabinet Committee Social Wellbeing Committee

Date of meeting 5 September 2018

Minister Hon Phil Twyford, Minister of Housing and Urban Development

Proposal You are proposing to exempt the following groups from tenancy reviews, as they are likely to have continued eligibility for public housing and are likely to gain the most benefit from stability of tenure:

- Tenancies where the signatory or their partner is **aged 65 years or over**
- Tenancies where the signatory or their partner has **one or more dependent children aged 18 years or under in their care**
- Tenancies where the signatory or their partner **receives a Supported Living Payment** from the Ministry of Social Development (MSD), either because they have a permanent and severe health condition or disability, or because they are providing full time care for another person (other than their spouse or partner) at home who would otherwise need hospital-level or residential care (or equivalent).

Key points

- Public housing is an effective way to provide stability and contribute to improved wellbeing outcomes for those most in need.
- The aim of tenancy reviews is to ensure that people in public housing still need it, and that they are in a property suited to their needs. This is particularly important in the context of the growing Social Housing Register. However, we recognise that some groups of tenants will continue to need stable and affordable housing for an extended period.
- The exemptions you are proposing aim to strike a balance between balancing security of tenure with the goal of freeing up public housing for those with the highest needs, without the

uncertainty and stress caused by tenancy reviews. The exemptions also aim to improve the efficiency of tenancy reviews.

- The three groups of tenants you are proposing to exempt are likely to derive significant benefits from the stability of public housing, and to continue to retain eligibility following a review (as shown by the small percentage of exits from targeting these groups). The following table shows each population group's size and exit rates from public housing to date as an outcome of a tenancy review:

| <i>Group proposed for exemption</i> | <i>No. of tenancies (not including overlaps)*</i> | <i>Exit rate (between 1 Jan 2015 and 31 March 2018)</i> <i>Baseline rate of exits as a result of a tenancy review is 20 percent.</i> |
|---|---|---|
| Tenancies 65 years or over | 13,290 | 10 percent |
| Tenancies with dependent children 18 years or under | 25,937 | 5 percent |
| Tenancies receiving Supported Living Payment (SLP) | 9,256 | 3 percent |

*There are an extra 4,467 tenancies which are in more than one of the above groups.

- The proposed exemptions would mean **52,950 tenancies (81 percent)** of all public housing tenancies) would be exempt from review, leaving 12,238 eligible for review. Currently, 8,967 tenancies (14 percent of all public housing tenancies) are exempt from review, leaving 56,221 tenancies eligible.

Impacts of the proposal on Register and exit rates

- Although this increase in exemptions is large, the impact on the Social Housing Register is likely to be relatively small. This is because tenancy reviews are not the primary driver of exits from public housing (only 5.5 percent of all exits between 1 January 2015 and 31 March 2018 were due to a tenancy review), and the majority of reviews resulted in continued eligibility for tenants.
- This Government has an ambitious plan to increase housing supply that should help to address demand on the Register, and offset the impact of expanded exemptions.
- The proposed exemptions could also mean higher exit rates from public housing, due to better targeting of tenancy reviews. MSD's data analysis suggests the future exit rate could improve from 20 percent (baseline) to 36 percent of all tenancy reviews.
- Exempt tenants are still obligated to tell MSD if their circumstances change in a way that may impact their eligibility for public housing, and can be reviewed at that point (except for the legacy group of 37 tenancies with lifetime tenure with HNZC).

Costs, resourcing and timeframes

- Costs and resourcing for restarting tenancy reviews will be covered from MSD baseline funding.
- MSD advises that tenancy reviews could recommence around the end of February 2019, taking into account the Christmas and New Year period.

Next steps – legislation, monitoring, extending current pause

- If the exemptions are agreed, the paper proposes that you will enact a Ministerial Direction to clearly set out the groups exempt from review.
- If the exemptions are agreed, you have decided to extend the current pause on reviews until the Ministerial Direction comes into effect and MSD recommences tenancy reviews in early 2019.
- MSD will monitor outcomes and review the proposed exemptions in three years to see whether they are still needed in a better functioning housing market.

There was one change to broaden the disability exemption in response to Ministerial and cross-party consultation

- The draft Cabinet paper was circulated for Ministerial and cross-party consultation. You received feedback from the Minister for Social Development, New Zealand First, and the Green Party of Aotearoa New Zealand.
- As a result of this consultation, you agreed to amend the disability exemption from covering only those tenancies in receipt of Supported Living Payment (medical reasons only, never reassessed) to cover **all** recipients of Supported Living Payment, including carers. The rationale for this is:
 - The exit rate from public housing for SLP recipients was extremely low (3 percent). This means they are just as likely to have continued eligibility for public housing as the narrower 'never reassess' group (which also had a 3 percent exit rate).
 - Tenants who receive SLP on a reassessment basis should not be excluded from the exemption on the basis of their potential capacity to work in future. Excluding them would ignore the benefits that public housing could provide for these tenants.
 - Including carers in the exemption recognises that they are caring for some of the most vulnerable people in the population, and as such are also likely to need public housing for longer due to affordability and accessibility needs.
- Expanding the exemption to all SLP recipients resulted in an extra **10 percent of total public housing tenancies** being exempted (from 71 percent to 81 percent, an increase of 6,557 tenancies)

Talking points

Should the proposed exemptions be this broad, given the significant and growing need for public housing places?

- Yes. I strongly support the scope of each exemption. All three groups are highly likely to remain eligible for social housing, and New Zealand and international evidence suggests these populations experience significant social benefits from having security of tenure.
- It is also important to understand that undertaking tenancy reviews on the populations proposed for exemption has essentially created intensive work that:
 - has led to the same outcomes (since the majority of reviews on these three groups has resulted in their continued eligibility for social housing)

- has created unnecessary stress and uncertainty for tenants who are then found to be eligible
- has produced no contribution to greater economic or social outcomes for families.

Why continue tenancy reviews at all if only 19 percent of the public housing population will be eligible for review?

- I consider that there is still a strong case for continuing tenancy reviews. They are one of the only levers available to free up the supply of public housing. As tenants become able to move into the private market, places will be able to be freed up, which helps effectively utilise the limited amount of stock that we currently have. In the context of rising demand for public housing, and before new supply comes online, this is especially important.
- Because reviews will be better targeted at those tenants who are closer to the market and are less likely to have continued eligibility for public housing, MSD data analysis indicates that exit rates due to tenancy reviews could almost double (20 percent up to 36 percent).

What's involved in a tenancy review/why do they take so long to complete?

- Tenancy reviews take six to 12 months because they involve five stages, some of which take a number of months to complete. The stages are:
 1. a desktop check (initial identification)
 2. engagement with tenants
 3. independence planning (MSD works with tenants over several months during this stage)
 4. a formal review of continued eligibility
 5. a transition period (90 days, or approximately three months).
- MSD aims to make the process as fast as possible for those with continuing eligibility to avoid any unnecessary disruption for tenants.

If tenancy reviews are responsible for only 5.5 percent of exits from public housing, what are the main exit reasons?

- The 2017 Taylor Fry report on the Public Housing System, which uses MSD data, notes the main reasons for household exits over the two years to 2017 (excluding transfers) are:
 - **Moving on** – tenant choice, change of circumstance, change of scene, employment opportunity etc: **47 percent** of total exits
 - **Poor social outcomes** – rent arrears, personal safety issues, house abandonment, prison, neighbourhood issues etc. These relate to tenant circumstances that could potentially be improved with more active tenant management: **24 percent** of total exits
 - **Poor social outcomes (property)** – property condition, fire damage etc: **less than one percent** of total exits

- **Poor health outcomes** – health issues, longer term care needed etc: **2 percent** of total exits
- **Miscellaneous** – Property upgraded/sold and other unknown issues: **11 percent** of total exits
- **Tenancy reviews: 5.4 percent** of total exits (this number differs slightly to the 5.5% referenced in the Cabinet paper due to analysis based on a different group of exits)
- **Deceased: 13 percent** of total exits.
- With regard to exits due to poor social outcomes, there is scope to look at what kinds of broader support MSD and housing providers could give to tenants, to stabilise tenancies at risk of such exits.

Will the exemptions also extend to tenancies with Community Housing Providers?

- Yes.

Is the proposal to extend the definition of children for the purposes of this policy necessary given all children under 18 would be within scope?

- Yes. We need to extend the definition of a 'dependent child' in the Ministerial Direction for the purposes of this policy change, because the legal definition currently used for public housing purposes does not include children in respect of whom payments are being made under section 363 of the Oranga Tamariki Act.

What's the difference between Supported Living Payment (SLP) never reassessed and all other SLP recipients?

- There are two reasons that someone can get SLP – for **medical reasons** or for **providing full time care** for someone else.

SLP (medical) is available to clients at least 16 years old whose work capacity is permanently and severely restricted due to a health condition, injury or disability, or being totally blind. Their eligibility will be **either**:

- **reassessed every two years** (because it is reasonable to expect that the impact of their health condition or disability may change over time, and their capacity for work may improve), **or**
- **never reassessed** (because the impact of their health condition or disability on their capacity for work is unlikely to ever improve enough that they could regularly work 15 hours a week or more in open employment).

Why did you exempt all carers, instead of a smaller group (eg just carers of adult children)?

- MSD's systems cannot separate SLP carers of adult children from SLP carers who are caring for others. Therefore, in order to operationalize this exemption, all carers receiving SLP would need to be exempted.

Author: s 9(2)(a) , Senior Policy Analyst, Housing Policy

Responsible manager: s 9(2)(a) , Policy Manager, Housing Policy

Report



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

Date: 1 December 2017 **Security Level:** In Confidence
To: Hon Phil Twyford, Minister of Housing and Urban Development

Initial advice on tenancy review exemptions and interim arrangements

Purpose of the report

- 1 This report provides you with initial advice on how we operationalise tenancy reviews to provide security of tenure and limit disruption for people with ongoing needs for public housing.
- 2 It also seeks your direction to undertake further work, and seeks your views on continuation of tenancy reviews while further advice is being developed, which we propose to deliver in early 2018.

Executive summary

- 3 The Ministry of Social Development (MSD) commenced tenancy reviews in 2014 to ensure the right people are in the right house for the duration of need. All tenants, unless they fall into one of the three exempt groups, are subject to a tenancy review every three years. The reviews assess continuing eligibility and whether the property meets their needs. An assessment of Income Related Rent Subsidy (IRRS) is undertaken annually via a separate MSD process.
- 4 You have previously indicated that, while public housing is not intended to be a house for life, certain groups of vulnerable tenants (older people, people with disabilities, and households with school-aged children) should be protected.
- 5 Exemptions from tenancy reviews currently exist for those in houses modified for their needs, those aged 75 and older, and those with agreed lifetime tenure – as agreed with Housing New Zealand (HNZ). Assured tenancies, which defer tenancy reviews for a period of time, also exist for households who are working with a Children's Team in the Ministry for Vulnerable Children, Oranga Tamariki (MVCOT).
- 6 The exemptions improve administrative efficiency by excluding tenants from selection if they are likely to have continuing eligibility for public housing (they are not generally intended to provide a house for life). However, the exemptions would benefit from being reviewed to ensure that vulnerable groups who are likely to have continuing eligibility for public housing do not have their tenancies reviewed.
- 7 We seek your direction to undertake further work to review the groups of tenants that could be exempt from tenancy reviews or be given assured tenancies. Until policy decisions are made, you may wish to put tenancy reviews on hold in the interim (there are currently 2,412 tenancy reviews in progress). If so, we propose to

undertake further work to give effect to this, including any amendments to ministerial directions, and report back to you by mid-December 2017.

Recommended actions

It is recommended that you:

- 1 **Note** that tenancy reviews are designed to ensure that public housing is used for the duration of need, and to ensure that properties continue to meet tenant needs; ✓
- 2 **Note** that exemptions exist to improve the efficiency of the review process by removing from selection those groups that are likely to have continuing eligibility; ✓
- 3 **Note** that assured tenancies exist to defer tenancy reviews for those with specific needs (currently limited to those working with MVCOT's Children's Teams); ✓
- 4 **Note** that the exemptions could be better targeted to tenants who are likely to have continuing eligibility for public housing, and that the assured tenancies could be applied to a broader group of tenants who may or may not have continued eligibility; ✓
- 5 **Agree** that officials undertake further work, including consultation with other government agencies and sector groups to identify broader groups of vulnerable tenants that could potentially be exempted from tenancy reviews, or be subject to an assured tenancy, and report back with advice in early 2018;

Agree/Disagree

- 6 **Note** that there are 2,412 tenancy reviews currently underway, and we seek your direction on interim arrangements while further advice is being developed;
- 7 **Agree** to one of the following options to manage tenancy reviews in the interim (i.e. until decisions have been made), if you agree to recommendation 5 above:

7.1 Pause all tenancy reviews;

Yes/No

OR

7.2 Pause new tenancy reviews only;

Yes/No

OR

7.3 Continue to process all tenancy reviews as usual;

Yes/No

- 8 **Note** that a temporary pause on tenancy review activity would reduce the risk of clients exiting from public housing who might in future be exempt from tenancy reviews, but it would increase demand on the social housing register;
- 9 **Direct** officials to undertake all work required to give effect to your decision on recommendation 7, including any amendments required to the ministerial directions, and report back to you with advice by mid-December 2017;

Agree/Disagree

10 **Discuss** this advice with officials.

Agree/Disagree



Simon MacPherson
Deputy Chief Executive, Policy

1/12/17

Date



Hon Phil Twyford
Minister of Housing and Urban Development

10.12.17

Date

Tenancy reviews were introduced to ensure the right people are in the right house for the duration of their need

- 8 Security of tenure is regarded as important for improving the lives of vulnerable people. Evidence suggests it contributes to improvements across a wide range of social and economic indicators, including education, health and employment.
- 9 Public housing¹ has historically been a 'house for life'. However, with demand continuing to exceed supply, tenancy reviews were introduced in 2014 by MSD as part of the transfer of the needs assessment function from HNZ.
- 10 On 27 October 2017 you indicated to officials that, while public housing should continue to be used only for the duration of need, tenancy reviews should not be used to exit vulnerable groups of people. This could include, for example, those with disabilities, older people and those with school-aged children.

Tenancy reviews have helped free up the supply of public housing

- 11 Public housing is under pressure – there were 7,327 households on the social housing register in the September 2017 quarter, and demand is increasing (the social housing register rose from 6,773 in June 2017). The increased demand is largely attributed to affordability issues in the private market, which have led to declines in home ownership and increased rents.
- 12 Tenancy reviews provide an important mechanism to ensure that, in a supply constrained public housing market, public housing is used by those who have ongoing needs, and that they are in houses that are suitable for their circumstances.
- 13 There are currently around 60,000 active tenancies subject to a tenancy review. As at 30 September 2017, 6,045 tenancy reviews had been completed since 2014. These have led to 1,337 households moving out of public housing (including 907 voluntary moves to private rentals and 159 voluntary moves to home ownership²).

The tenancy review process checks continuing eligibility, and ensures tenants are in the right houses

- 14 All tenants have obligations to inform MSD of any change in circumstances that could affect their ongoing eligibility for public housing, the amount of rent they pay, or ongoing entitlement to stay in their particular property. This is a requirement under section 115 of the Housing Restructuring and Tenancies Management Act (the Act). It ensures that public housing is only used for the duration of need, tenants are receiving the correct amount of Income Related Rent Subsidy, and that properties are well-utilised.
- 15 The tenancy review process supports these aims by periodically checking eligibility, and whether the property is suited to the tenants' needs. We note that the tenancy reviews are not used to check whether the tenant is paying the correct amount of

1 Otherwise known as 'social housing' in the Housing Restructuring and Tenancies Act 1992.

2 MSD has not, to date, captured data for those that have moved following a 90 day notice (other than the tenancy end date). Work is underway to record this information in the future.

income-related rent, as this is a separate process that is reviewed at least annually by MSD.

16 Continued eligibility is based on an assessment of the following criteria:

- affordability (ability to afford private housing)
- sustainability (ability to sustain private housing)
- accessibility (adequate supply of alternative housing options).

17 All active tenancies are subject to a three-yearly tenancy review³, unless exempt (see paragraph 23). To date, MSD has prioritised⁴ clients who are:

- likely to be able to move into the private market in the short-term because they are paying (near) market rent
- likely to be in under-utilised properties
- in very large properties (four bedrooms or more) who may be able to move to smaller public housing.

There are five key steps in the tenancy review process

18 MSD aims to make the process as fast as possible for those with continuing eligibility to avoid any unnecessary disruption to tenants. At any stage, support is provided to develop an Independence Plan, with the aim of a voluntary exit.

19 The process commences with a **desktop check** to see if any information is held within MSD to indicate whether a client should be selected, whether they are still eligible, and whether their property is suited to their housing needs.

20 If the information is not held by MSD, the **engagement stage** begins. Enquiries are made with the client to check if any other information exists to determine continuing eligibility. If it is apparent that a client is still eligible for public housing, and is in a property appropriate for their needs, continued eligibility is confirmed.

21 If it is identified clients may no longer be eligible, **independence planning** begins. MSD works with tenants over many months before making a formal decision.

22 A **formal tenancy review** is completed in every case following the initial processes. At this stage, a decision is made as to whether the tenant is or is not eligible.

23 When the client ceases independence planning, a 90 day **transition period** begins. Where a voluntary exit does not occur during this period, a 90 day notice period is issued by the housing provider to end a tenancy under the Residential Tenancies Act 1986⁵.

3 Canterbury was initially excluded from tenancy reviews due to the impact of the earthquakes on the local housing market, but were introduced in March 2017 after the market had recovered.

4 Note that these are not the only clients selected.

5 It is not clear if community housing providers are keeping tenants on as non-IRRS tenants rather than giving 90 day notices as providers do not have to inform MSD of tenants who are not receiving IRRS.

Some classes of people are exempt from tenancy reviews

24 Section 102(3) of the Act enables joint ministers to provide a ministerial direction that identifies the class or classes of people which MSD may or may not review in terms of continued eligibility for social housing. We note that the current exemptions have not been formalised through a ministerial direction to ensure sufficient flexibility exists in the timing and targeting of reviews.

25 **Operational exemptions** currently apply to:

- those in houses modified for their needs (e.g. wheelchair access)
- those who are aged 75 or older
- those with agreed lifetime tenure with HNZ – these resulted from HNZ having taken over tenanted properties from a previous landlord, e.g. Council, and a commitment made to remain in the property.⁶

26 In addition to exemptions, **assured tenancies** apply to tenants who are working with MVCOT's Children's teams⁷. The assured tenancies defer tenancy reviews for up to three years, with a further deferral of up to two years available, if necessary.

Exemptions provide administrative efficiency by removing from selection those likely to have continuing eligibility

27 Tenancy review exemptions increase efficiency in the review process by excluding from selection tenants who have, or are likely to have, continuing eligibility for public housing. This ensures that tenancy reviews are targeted to those who have the potential to move out of public housing in the short-term, or who may need to move to a property more suited to their needs.

28 In order to be effective, the exemptions need to be tightly targeted. This is because, in the absence of a tenancy review, tenants could end up being in public housing for longer than they are eligible, or they end up in a property long-term that is unsuitable for their needs. This risk is partly mitigated by the obligation to inform MSD of any changes in circumstances that affect eligibility.

The current exemptions could be better targeted

29 MSD does not have evidence to suggest that the tenancy review process is leading to the exit of vulnerable people with ongoing needs for public housing. Currently only data on age of main tenant and number of children is readily available.

30 However, the current exemptions could be reviewed to better target those who are likely to have continuing eligibility for public housing, and who are more likely to need an assessment to check their house continues to meet their needs.

⁶ The number is very small as it is a legacy issue, consisting of 136 tenancies in 2015.

⁷ Children's teams work with families and whanau to create safer lives for at-risk children.

- 31 For example, the **exemption for those in modified properties** provides a proxy for those with disabilities. However, it may be providing longer tenure than is necessary⁸, while at the same time excluding others with conditions that do not require modifications (e.g. mental, intellectual, or physical disabilities that restrict tenants' ability to work and move out of public housing, even with support)⁹.
- 32 **Exempting tenants on the basis of age** requires careful consideration. Of the 1,337 tenants who have exited public housing following a review, the 40-54 age group represented the biggest proportion (51 percent), followed by 55-64 (27 percent), 25-39 (13 percent) and 65+(8 percent).
- 33 Consideration could be given to lowering the age, for example, to 65 years. People in this group are more likely to have a disability (59 percent compared to 24 percent of the total population in 2013), and be less likely to be able to increase their income¹⁰.
- 34 However, this would have some risks, particularly as this group is more likely to be in an underutilised property, and the size of this group is expected to grow. By 2038, those aged 65+ are projected to comprise 27 percent of the population compared to 10 percent in 1981¹¹. As those aged 65+ in public housing make up 23 percent of tenants¹², providing exemptions is likely to have an increasing impact on demand.
- 35 Lowering the age may also raise potential discrimination issues under the Act. At this stage, we consider it is likely to be justified. However, further justification work would be required.

The assured tenancies could be broadened

- 36 Assured tenancies are an operational mechanism to defer tenancy reviews to prevent further disruption to vulnerable children who are working with MVCOT's Children's Teams. These clients may or may not have continuing eligibility for public housing.
- 37 The current exemption is very narrow, and there are likely to be other similar circumstances whereby people need housing stability to work through specific barriers to living in the private market. This could include, for example, **people in long-term treatment or non-residential rehabilitation** (e.g. addictions, or treatment for serious illnesses)¹³.
- 38 For people who may be suffering from conditions that require long-term treatment or rehabilitation, it could be detrimental to their recovery to be subject to a tenancy review if it is undertaken too soon. While it is likely many of these tenants would

8 Some people may no longer require the use of the modification, or the tenant who required the modification no longer lives there, but the tenants remain exempt. People may also be given a house with modifications for previous tenants if the property was vacant and no other tenants required the modified house.

9 MSD does not capture data on tenants' medical conditions. If serious medical conditions that would affect continuing eligibility became known during a tenancy review, tenants are likely to be found eligible.

10 40% have less than \$100 per week from other non-NZ Superannuation sources, rising to 60% for singles.

11 Statistics New Zealand (2013). <http://www.stats.govt.nz/Census/2013-census/profile-and-summary-reports/quickstats-65-plus/population-overview.aspx>.

12 As at 30 September 2017 there were 14,823 tenancies where the primary tenant was 65 or older.

13 MSD does not capture data on the number of people in long-term treatment or rehabilitation (but does capture data on those in residential care or services), so the impacts cannot readily be quantified.

have continuing eligibility, an assured tenancy could provide a much longer period of housing certainty, thereby supporting positive health outcomes.

- 39 Assured tenancies could also potentially be used to defer tenancy reviews for all **households with young children**¹⁴ for a period of time until their children are independent (e.g. are able to be unsupervised or have left school), thereby increasing tenants' ability to work and live in the private market. Evidence suggests that housing stability supports good educational outcomes for children.
- 40 However, assured tenancies for this particular group may be too broad, as many of these households are likely to be able to move out of public housing. For example, of the 1,337 households that have exited public housing following a tenancy review, at least 54 of those households had at least one child¹⁵.
- 41 Further work could explore whether there are more specific subgroups that would require such protection. Alternatively, to provide stronger protections for households with young children, changes to the eligibility criteria could be explored.

Further work could be undertaken

- 42 While identifying exempt groups upfront has administrative advantages, the review process is undertaken with care to ensure that tenants who continue to be eligible are identified at the earliest opportunity. At any stage, if a person is found to still be eligible, they can remain in public housing. Therefore, the risk of exiting vulnerable tenants with continuing eligibility is low.
- 43 However, if your preference is to review the use of exemptions and assured tenancies, we propose to consult more widely with agencies and the sector to identify the specific population groups that they should apply to.
- 44 The key risk with a permanent or temporary exemption is the potential to undermine the intention of tenancy reviews, by allowing people who may not have continued eligibility to remain in public housing for longer than they are eligible. This could have significant impacts on demand, depending on the size of the cohorts, as it would reduce the number of exits and result in the need for new supply to meet demand. There is also a risk that tenants remain in properties unsuitable for their needs.
- 45 Exemptions also need to be considered carefully to avoid creating incentives to remain in public housing. For example, the evidence is mixed regarding the benefits of targeting people who are unemployed. On one hand, public housing can provide the stability required to find employment. On the other hand, being in public housing, with its income-related rent, can reduce incentives to work in order to remain eligible for public housing¹⁶.

14 It is estimated that there were 33,399 tenancies with children as at 30 September 2017.

15 The number is likely to be under-reported as the data only captures those on benefits at the time the tenancy started who have declared a child is living in the property.

16 In some cases, tenants have threatened to quit their jobs to remain eligible – we note this would have implications for tenants as there is a stand down period to access a benefit.

- 46 While exemptions do not negate the obligation to inform MSD of any changes in circumstances that affects continuing eligibility, tenancy reviews currently provide the best tool for monitoring and enforcing this obligation.

Tenancy reviews could be put on hold in the interim

- 47 MSD is responsible for decisions on eligibility, but housing providers are responsible for giving effect to the decisions. We note that HNZ has taken steps to stop issuing or enforcing 90 day notices due to uncertainty while consideration of the policy settings is underway.¹⁷ Further, MSD will reduce activity on tenancy reviews in the lead-up to Christmas (from mid-December 2017 until after the Christmas break¹⁸).
- 48 If you would like to review the groups eligible for an exemption or assured tenancy, you may wish to temporarily put current tenancy reviews on hold to avoid disadvantaging groups of people that may in future be exempt. Options include:
- Option A: a complete pause on all proactive¹⁹ tenancy review-related activity, for both existing and new candidates (there are 2,412 reviews underway)
 - Option B: pausing all new tenancy review activity only
 - Option C: business as usual.
- 49 A complete pause on all new and existing tenancy reviews under Option A would benefit a wider group of tenants. However, it would also put more pressure on the social housing register than Option B. A partial pause on new tenancy reviews only would put less pressure on the social housing register, but some existing clients could be disadvantaged if they were, in the future exempted from tenancy reviews.
- 50 There are also some general operational risks that apply to options A and B, including raising client expectations, potential confusion for staff and clients, and some minor impacts on resourcing. These risks could be mitigated through communications²⁰, and changes to operational practices to focus staff on initial housing assessments rather than tenancy reviews.
- 51 Maintaining business as usual would continue to free up public housing for those in need. It would also provide continuity in light of wider uncertainty regarding institutional changes, and would enable us to continue to engage with clients on their current situation and ensure we are providing the necessary support.
- 52 However, it could disadvantage clients who, within a few months, could potentially have been exempt from tenancy reviews and therefore remained in public housing for longer. It would also lead to 'not eligible' notifications accumulating if they are not being actioned by HNZ, leading to prolonged uncertainty for these clients.

17 As at 16 November 2017, HNZ had 21 90 day notices in flight. A further 139 clients are awaiting a 90 day notice from their housing provider.

18 MSD normally undertakes 60 tenancy reviews a week.

19 Some tenants approach MSD for support to move into the private market – in these cases, MSD would still provide support.

20 This would include not directly advising clients in the planning stage that the review is on hold – rather, we would not proactively work with them while the tenancy reviews are on hold.

- 53 On balance, to ensure a coordinated approach with HNZ is taken, we recommend Option A. Introducing a temporary pause on tenancy reviews while policy work is underway is consistent with MSD's legal advice. We note that, if your preference is to introduce a longer-term or permanent end to tenancy reviews, we can provide you with further advice on what would be required.
- 54 Section 102 of the Act provides for the Minister to give the agency direction regarding the timing and targeting of reviews. If your preference is to introduce a temporary pause on all tenancy reviews while the policy work on exemptions and assured tenancies is underway, we will undertake all work required to give effect to this, including any amendments required to ministerial directions.

Housing Support Products help with the transitions

- 55 For those that are deemed to be ineligible for continued access to public housing, or who choose to move into private housing while on the register, support is made available to help them with their transition. This includes the use of Housing Support Products (HSPs), which can provide financial and other assistance, including assistance with: bonds, letting fees, moving assistance, advance rental payments, and landlord references.
- 56 In 2016/17, MSD spent \$3.69m in total on HSPs to support people to live in the private housing market. On average, MSD spends \$2,257 per recipient on HSPs²¹. HSPs have been in place for three years now, and MSD has reviewed the products to assess the outcomes being achieved. The review identifies the effectiveness of each product based on internal data and qualitative evidence. We will provide you with advice, based on the findings of the review, in December 2017.

Next steps

- 57 We propose that you discuss this paper with officials. If your preference is to review the classes of people eligible for a tenancy review exemption or assured tenancy, we will undertake further consultation and report back to you with advice in early 2018.
- 58 If you agree to a temporary pause on existing and or new tenancy reviews, we will provide further advice by mid-December 2017. Once agreed, MSD will take the necessary steps to communicate these decisions to staff and clients.

File ref: REP/17/12/1233

²¹ Based on a three year period (2014 to the end of June 2017).